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MONTEREY, CALIFORNIA

JOINT APPLIED PROJECT

A Handbook for Contracting Officers

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June 2007

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A HANDBOOK FOR CONTRACTING OFFICERS

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U.S. Army, Communications-Electronics Life Cycle Management Command

Submitted in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE IN CONTRACT MANAGEMENT

from the

NAVAL POSTGRADUATE SCHOOL
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A HANDBOOK FOR CONTRACTING OFFICERS

ABSTRACT

The purpose of this Joint Applied Project is to develop and field a Contracting Officer/Team Leader Handbook. Multiple factors have led to an environment that is less than optimal for the accomplishment of the acquisition mission. There has been a significant loss of corporate knowledge in the Communications-Electronics Life Cycle Management Command (C-E LCMC) workforce combined with acceleration in promotions to the GS-13 level. The experience level of current Contracting Officers is limited due to rapid promotions. In the past few years the organizational culture focused more on cycle time reductions, versus the quality of the work product in order to satisfy the needs of the customer. In addition, since the supervisory role was raised to the GS-14 level, and GS-13's were relieved of supervisory responsibility, there has been increased confusion as to the role of the team leader. Initial research suggests that Contracting Officers/Team Leaders need another resource to support them in the accomplishment of their varied duties. The C-E LCMC Acquisition Center's strategic plan for the next 12-month period sets forth a vision of a new business culture – one that defines competency at three different levels. The first level is “Do” a complex task (being able to repeat this task consistently), followed by level two, which is “Understand Why” (being able to take learned knowledge and apply that to solving the next problem and doing the next task; being able to improve execution each time and refine), and ending with level three “Explain the Why” (mastering knowledge and skill so that one can do it again and show someone how to do it and why), which leads others to competency. The plan is to enhance the workforce skill sets, ensure contracting is done right, and focus on leadership development. The objective of this project is to align with this plan and provide a guide that supports Contracting Officers/Team Leaders in three key areas: technical competence, leadership, and customer relations.

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I. BACKGROUND

A. INTRODUCTION

The Communications-Electronics Life Cycle Management Command (C-E LCMC) Acquisition Center (AC) is “the premier Army leader in acquiring quality, technologically superior, next generation equipment and services in the shortest time for our warfighters while obtaining best value for the American taxpayer.”¹ The C-E LCMC AC maintains offices at Fort Monmouth, New Jersey, Alexandria, Virginia, and Fort Huachuca, Arizona. It also maintains the Principal Assistant Responsible for Contracting (PARC) responsibilities for acquisition activities located at Tobyhanna Army Depot, Pennsylvania and Technology Applications Office, Fort Detrick, MD.²

The C-E LCMC AC provides a full spectrum of world class, quality acquisition services, and major commodities include: aviation communications, man-portable radios, radar systems, computers, satellite communications, night vision equipment, command and control systems, sensors, information management systems, battery and power sources, intelligence/electronic warfare systems, mines/countermines, facilities supplies, and a host of technical services that support its various customers’ mission responsibilities. The C-E LCMC AC supports a large number of C-E LCMC organizations including, but not limited to, the Software Engineering Center (SEC), the Logistics Readiness Center (LRC), the Research & Development Engineering Command (RDECOM), and the Information Systems Engineering Center (ISEC). The C-E LCMC AC also supports a number of Program Executive Offices (PEOs) including, but not limited to, the PEO Command, Control and Communications Tactical (PEO C3T), the PEO Intelligence and Electronics Warfare and Sensors (PEO IEWS), the PEO Enterprise Information Systems (PEO EIS), PEO Aviation, and the PEO Soldier. The C-E LCMC AC has also been successful in attracting new business from the Office of the Secretary

¹ C-E LCMC Acquisition Center Homepage, <http://www.monmouth.army.mil/cecom/acq/index.html>. April/2007.

² Ibid.

of Defense (OSD), the U.S. Air Force (USAF), the Drug Enforcement Administration (DEA), and other Department of the Army sponsored initiatives.³ As of the end of fiscal year 2006, the C-E LCMC AC obligated over eleven billion dollars.

This Center has been through an organizational evolution and has adapted to environmental changes such as changes in personnel resources, the introduction of new technologies, and innovative business practices. Despite the myriad of changes, it survives and continues to thrive in an environment that is often less than optimal for the accomplishment of the acquisition mission.

Initial research suggests that our workforce is currently less experienced when compared to the past. While the FAR provides the regulatory framework for buyers, it fails to capture what Contracting Officers/Team Leaders need to accomplish their varied duties. The product of this Joint Applied Project is a resource for their use. 'A Handbook for Contracting Officers' provides a valuable and much needed guide for Contracting Officers/Team Leaders.

With all the changes, the Center's resources have significantly fluctuated. The organization statistics that follow represent the 1102 job series and other closely related career fields. As depicted in the following yearly summary, the organization grew from 551 personnel in 1981 to a high of 891 personnel in 1987. Since then, the numbers have generally decreased annually in more cases than not, and as of the close of 2006, there were 393 employees on board with two military employees. Our civilian population is forty four percent of that in 1987. This decrease is directly attributable to attrition/ downsizing, RIF, etc., and change like this affects the ability to accomplish the mission. This decrease not only represents a loss of personnel but a decrease in experience levels of newer employees and a loss of significant corporate knowledge.

³ C-E LCMC Acquisition Center Homepage, <http://www.monmouth.army.mil/cecom/acq/index.html>. April/2007.

Table 1. Manpower by Fiscal Year (1102 Job Series and Related Career Fields)

Fiscal Year (FY)	End of FY Actual Civilian	End of FY Actual Military
1981	551	19
1982	823	23
1983	772	29
1984	N/C identified	N/C identified
1985	Not available	Not available
1986	857	37
1987	891	38
1988	752	38
1989	813	Not available
1990	699	32
1991	600/624	30
1992	657	27
1993	627	26
1994	623	19
1995	548	9
1996	522	7
1997	625	Not available
1998	571	18
1999	487	Not available
2000	480	Not available
2001	404	0
2002	430	Not available
2003	333	2
2004	362	1

Note. Data compiled from Command Historian Library, SUBJECT: Acquisition Input for Command History, 1981 - 2004.

With this decrease in manpower and a contemporaneous increase in workload, the focus of the workforce turned to speed and shortcuts versus quality and time to sit and think about actions. This unplanned, organizational culture change crept up on the command.

Another significant change in the personnel structure is that C-E LCMC employees have gone from specialists to generalists. In the early 1980s, the organization had various offices such as: Spare Parts Procurement, Repair Parts Planning, and Pricing,

where the employees of these offices were not exposed to anything other than their direct, current responsibilities. In line with this structure, graduates in 1981 from the intern program were given an opportunity to select their career path, either to be an analyst (pricing or policy-oriented) or a specialist (contracting). This option no longer exists.

Acceleration is another reason, both through accelerated intern programs and accelerated promotions. The old three-year Intern Program in the 1980s took an intern from GS-5 to GS-7 to GS-9 with a requirement to compete for continued promotions thereafter. Although graduated interns were ready to apply for promotions, vacancies were not always available due to the large workforce, and no one was ready to retire. The current two-year program begins at the GS-7 level to GS-9, with a non-competitive promotion to GS-11 upon completion of the program. As seen above, when the workforce numbers were significant, opportunities to climb the ladder were few, sometimes years between announcements. Before the workforce aged, vacancies of one were seen. With such significant attrition over the last few years, the promotion opportunities have come more often and in more numbers (as many as seven or eight at a time) with little competition. The Contracting Officers of the past had a minimum of five years of experience with the majority having had several more. Today, there are Contracting Officers at the GS-13 level with as little as four years of experience. However, with a recent influx of interns (approximately 170 since February 2004), there may be a complete turnaround in vacancy opportunities.⁴

At the end of FY 03, over seventy percent of the Center's workforce was over forty six years of age. FY 03 statistics show that fifty four percent of all GS- 11s, eighty percent of all GS 12s, and sixty eight percent of all GS 13s will be retirement eligible within ten years! While the Acquisition Center has implemented a succession plan, there may be a dearth of well-trained and well-experienced acquisition personnel in the near term.⁵

⁴ These figures were obtained through the analysis of data from various sources such as the Table of Distribution and Allowances, Organization Charts and internal training databases that track Contracting Officer Warrant Data and experience.

⁵ MEMORANDUM FOR DCSOPS Command Historian, SUBJECT: Acquisition Input for Command History, 31 January 2004.

One of the most concerning issues today is the ratio of knowledgeable employees to the intern pool. This loss of experienced personnel over the last few years is exacerbated by the loss of corporate knowledge – those experienced employees with many years of contracting experience directly within the Center. Of the 393 personnel in the Center today, seventy three are GS-12s and seventy are interns with an expectation of more interns in 2007.⁶ This brings the Center to a 1:1 ratio of contract specialists to interns. This lower experience level requires a “Back to Basics” approach to training.

B. CORPORATE STRUCTURE CHANGE

The Center has established a goal for the primary GS 1102 position as a GS-13. In the 1980s, approximately 4.8 percent of the Center’s positions (39 divided by 800) were GS-13s. Today, eighteen percent of the Center’s positions (69 divided by approximately 393) are GS-13s (working Contracting Officers). There are additional GS-13s with warrants working as analysts; however these positions are not included in these figures.⁷

C. SUPERVISORY RESPONSIBILITY

Another change that has caused confusion and misunderstanding is the OPM-directed supervisory position. These positions were raised to a higher GS level in order to increase the ratio of employees to supervisors. As a result, Team Leaders are no longer supervisors, and this has led to a lot of confusion and misunderstanding of the team leader role.

D. LOSS OF CORPORATE KNOWLEDGE

In 1995 the Center experienced the first mass retirement and it has seen large numbers of personnel retire each year since then (the Center had 548 employees in FY 1995 and 362 at the end of FY 2004). Before the retirement, all employees had multiple peers they could turn to that had extensive knowledge and experience and a depth of

⁶ These figures were obtained through the analysis of data from various sources such as the Table of Distribution and Allowances, Organization Charts and internal training databases that track Contracting Officer Warrant Data and experience.

⁷ Ibid.

understanding. Today, it is very difficult to find someone who really knows and understands contracting. In 1998 and 1999, the Center experienced a red line exercise in which it suffered another loss of personnel, with forced transfers to other organizations.

E. TODAY'S CONTRACTING OFFICER EXPERIENCE LEVEL

The Center currently has sixty nine working Contracting Officers. Thirty six of these employees have had their warrant less than three years. Of those, twenty seven have been a contracting officer less than two years, and twelve less than one year. Yet what is more disturbing is that before earning a warrant, several contracting officers (approximately five) had less than five years experience as an 1102 before being promoted, more than ten contracting officers had less than eight years experience as an 1102 before promotion, and four of the current KOs spent most of their 1102 experience as analysts rather than contracting specialists.⁸

The office environment has also changed – cubicles are now used instead of an open bay system wherein all personnel could quickly and easily communicate with colleagues. The discontinued daily routine included a teaching/sharing environment where everyone was inadvertently involved in each other's work and a contracting specialist was indirectly involved in all the work actions of the other personnel. This environment was conducive to an osmosis type of learning environment. However, this project does not focus on this change as it is subjective with no empirical evidence to support the conclusion.

F. STRATEGIC PLAN

Recently, C-E LCMC AC senior management identified a twelve month strategic plan that sets forth a vision of a new business culture. It includes three objectives: Objective #1 is workforce development, and enhancement of workforce skill sets; Objective #2 is the promotion of doing contracting 'right' and ensuring the same; and,

⁸ These figures were obtained through the analysis of data from various sources such as the Table of Distribution and Allowances, Organization Charts and internal training databases that track Contracting Officer Warrant Data and experience.

Objective #3 is leadership development, ultimately leading to a new culture. One of the most basic elements within the plan is to support the Procuring Contracting Officer.

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II. PROJECT SCHEMA

A. OBJECTIVE

The intent of this project is to provide a handbook that contains thought-provoking questions and lessons learned that are not otherwise found in published regulations such as the FAR and supporting supplements. Its purpose is to hand down lessons and ideas gained only through experience. The objective of this project is to provide a guide that will support Contracting Officers in three key areas: technical competence, leadership, and customer relations. In addition, it will help Lead Contract Specialists understand their roles as Team Leaders.

B. PURPOSE, DELIVERABLE AND APPLICATION

1. Purpose

- The intent is to provide a handbook that contains thought-provoking questions and lessons learned that are not otherwise found in published regulations such as the FAR and supporting supplements. Its purpose is to hand down lessons and ideas gained only through experience?

2. Deliverable

- ‘A Handbook for Contracting Officers’ is set forth at Chapter III. It is designed to parallel the Parts of the Federal Acquisition Regulation. Each section contains paragraphs entitled, “Scope,” “Discussion” and “Closing Statement,”

3. Application

- ‘A Handbook for Contracting Officers’ is designed for Lead Contract Specialists at the C-E LCMC Acquisition Center. It may be shared by the Contract Specialists as well. This handbook is available for application at other contracting agencies and commands.

C. SCOPE AND LIMITATIONS

Throughout the past few years, the organization’s concentration was on new employees, yet there exists another group of personnel who were not given the same attention. That group consists of the less-experienced Contracting Officers. In my role as group chief, I supervise and coach approximately thirty employees. Through no fault

of their own, Contracting Officers with limited experience are faced with situations they have not encountered. Many have requested my advice and guidance in order to solve problems and make good business decisions. These limitations are most significant in acquisitions for source selections. At one point, approximately two years ago, I was consulting on four source selections at once. A tool to aid these Contracting Officers that consists of documentation and a collection of otherwise unwritten lessons learned will provide assistance in everyday situations from drafting documents to making decisions.

Coincidentally, the senior management of our Center included in their Strategic Plan for 2005 a concentration on the Contracting Officer and our Organizational Expectations in the areas of technical competence, customer relations, responsibility to the organization, and leadership and professional development.

My approach to completing this project includes: a review of the strategic plan of the C-E LCMC Acquisition Center; identification of key subject areas to address both the perspective from the Contracting Officer/Team leader wherein they perceived they needed support as well as the perspective of the organization/management; and identification of resources and key points that should be considered in those subject areas.

D. CREDENTIALS

I joined the C-E LCMC AC in August of 1981. I have had the opportunity to observe this organization grow into a highly respected contracting entity in the Army. I began my acquisition career through acceptance into the Acquisition Career Intern Program graduating in August of 1984 as a GS-09. I was competitively promoted to GS-11 and GS-12 and spent 10 years attaining varied experience in different types of acquisitions. These years did not offer the same promotion opportunities as today. Recruitments for GS-13 Contracting Officers were few and far between. However in February of 1995, a time when several Contracting Officers retired at once, my Director provided me an unlimited warrant and detailed me into the position of Supervisory Contract Specialist. Shortly thereafter I attained Level III Certification in Contracting. In May of 1996 I accepted a position as the Director of Contracting for the Army Atlanta Contracting Center, Puerto Rico Sub-Office in Fort Buchanan, Puerto Rico due to my

husband's selection for Command at Defense Contracting Management Command, Puerto Rico. This transfer provided me an opportunity to learn how to manage the operations of an organization, improve my personnel management skills, and it exposed me to the world of construction contracting.

With my husband's retirement from the Army I returned to the C-E LCMC AC in April 1998 as a GS-13 Contracting Officer. Upon my return I continued to build my knowledge base in contracting and supervision and was then assigned to an A-76 competition/study for the Information Mission Area which led to the government employees retaining the right to provide the services.

Since February 2002, I have been involved in the training of interns. I established and taught a "Back to Basics" training course for nine new interns that joined our organization. This class was expanded and developed into the "Intern Institute," which was then conducted over a two-month period in November/December of 2003 and August/September of 2004 with two additional groups of interns (approximately fifty interns in each session). Three more sessions of the Intern Institute were held from September 2005 through October 2006 with class sizes of eleven, eighteen and forty six per respective session. In addition to my role as an instructor, I am also a group chief with supervisory and coaching responsibility for approximately thirty employees. I was promoted in March, 2002.

My years of service, accomplishments, awards and what I continue to pursue combined with daily mentorship supports my credibility as author of this handbook.

I supplemented my experiences as an instructor and group chief with recollection of prior discussions with Contracting Officers/Team Leaders (GS-13s) and C-E LCMC management (GS-14s, GS-15s, and a member of the SES). I identified a series of acquisition and leadership challenges that face the new Contracting Officer. To supplement this information, I completed a literature review of law, policy and federal acquisition regulations, and performed an internet search to identify related topics. This was done to ensure that the resultant product addressed the strategic needs of the organization as well as provided a useful Handbook for Contracting Officers. By

utilizing the knowledge I gained while preparing to teach the modules for the Intern Institute along with the experience from my career in the acquisition center and the research I conducted in preparing to complete this project, I have compiled a handbook aimed at meeting the specific needs of the new (or relatively inexperienced) Contracting Officers in the Acquisition Center. This handbook is produced in the next chapter.

It provides Contracting Officers with specific documentation related to government contracting and a collection of otherwise unwritten lessons learned based on my experiences, which can provide insight into everyday situations from drafting documents to making business decisions. This has given me the opportunity to record and share my corporate knowledge garnered through twenty five years in the contracting profession.

It is written in a friendly, informal style as opposed to a rigid format. The intent is to produce a document that flows easily to make reading it desirable.

III. A HANDBOOK FOR CONTRACTING OFFICERS

Congratulations, you have just earned a wonderful opportunity, one of the best positions you could ever have in the acquisition field. Ask anyone who has moved on to other positions in management and they will tell you they miss being a Contracting Officer (KO). Now, what comes with this position are great responsibilities and the ability to make sound decisions on behalf of the U.S. Government. Of course, there is another side to your role and that is the one of team leader. Although you have the power and authority to sign contracts, you will depend on one or more specialists to work with you and provide you with a quality product (contract/order) that represents the acquisition of a supply or service at a fair and reasonable price.

Your dual role is faced with many challenges, and the purpose of this handbook is to help you through some of them. Expertise in any venue comes with a combination of knowledge, education and experience, with experience sometimes having the biggest impact. It does not happen overnight – experience comes with time. This handbook is designed as a manual that suggests that you apply critical thinking skills and offers ideas and suggestions so that as you face new challenges it will help lead you to viable solutions. You should then be able to take these tested concepts and apply them to similar situations.

You will find the contractual or technical aspects of this handbook presented in an order that parallels the Federal Acquisition Regulation (FAR), of course. It also includes lessons learned, recommendations, best practices, and sound business ideas. The leadership section parallels your job description (not a bad place to start) and the section on Customer Relations is a hodgepodge of information in no particular order – just helpful materials. This handbook is not an all-inclusive source but is a start at offering ways to handle day-to-day business operations. There are areas with a stronger focus such as the topics discussed at length in FAR Part 15 - Contracting by Negotiation, for example. Conversely, there are some chapters of FAR with no discussion in this introductory version. So let us begin at the beginning with FAR Part 1.

A. FAR PART 1 – FEDERAL ACQUISITION REGULATIONS SYSTEM

1. Scope

One of the most important aspects of FAR Part 1 is that this is where you have been provided your authority as a Contracting Officer. It discusses your role and that of your acquisition team. It also provides valuable information in regards to the regulations themselves, deviations to the regulations, and administrative procedures. Two other subjects are addressed in this part that you should be aware of – that of unauthorized commitments and ratifications thereof and the introduction of the Determination and Findings. The discussion below will address the authority and responsibility of the major players in the contracting world.

2. Discussion

To understand what goes with your role as a KO you must first understand the guiding principles for the Federal Acquisition System. FAR 1.102(b) states that the Federal Acquisition System will (1) satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service by, for example – (i) maximizing the use of commercial products and services; (ii) using contractors who have a track record of successful past performance or who demonstrate a current superior ability to perform; and (iii) promoting competition; (2) minimize administrative operating costs; (3) conduct business with integrity, fairness, and openness; and (4) fulfill public policy objectives. You have the opportunity to exercise personal initiative and sound business judgment in providing the best value product or service to meet the customer’s needs. Your flexibility lies here as well. If a specific strategy, practice, policy or procedure is in the best interests of the Government and is not addressed in the FAR nor prohibited by law (statute or case law), executive order or other regulation, the strategy, practice, policy or procedure is a permissible exercise of authority. However, accountability, although shared among the acquisition team, is ultimately *yours*. Decisions made are *yours*. Simply put, your role as a KO is to execute contracts that support the warfighter, but to do so in a manner that safeguards the interests of the United States. Remember, you cannot delegate this authority to others nor can another KO sign on your behalf. If in

your absence a document is submitted to someone else for signature, your signature block shall be changed to the person actually signing the document. Note that if someone asks you to sign for someone else you insert your signature block on the document. This leads to a recommendation that you establish agreements in advance with your peers. Identify to your team members what KOs you would refer them to in your absence. Work out plans for coverage and share information about your programs with them so that when these instances occur the KO has some background on the issues and can sign in your absence, thereby keeping the acquisition moving forward. Three other responsibilities that you should always keep in mind are that you must have proper and adequate funding available to enter contracts, you have awarded a contract that is fair and reasonable to both parties, and your contract action is otherwise legal. Speaking of legal, your contract files should reflect either compliance with or resolution of any legal comments before release of those documents. Once legal review is accomplished, if any changes are made other than administrative changes, you should resubmit your file for further legal review.

Although you have a significant amount of responsibility as a KO, you do not have it all. The Head of the Contracting Activity (HCA) is “the official who has overall responsibility for managing the contracting activity.” This authority is received through the Executive Department Agency Head. At C-E LCMC, the Commanding General assumes the role of HCA. Then, we have the Principal Assistant Responsible for Contracting (PARC). The PARC is the Senior Staff Official of the Contracting Function within the Contracting Activity. The HCA designates the PARC. Finally, we have the Chief of the Contracting Office (CCO). Here at the C-E LCMC Acquisition Center, the Director of the C-E LCMC Acquisition Center holds the roles of both the PARC and CCO. Since Mr. Edward G. Elgart holds all three positions, it is important when routing a document for his review and signature that the proper signature block be used which designates the proper authority for that action.

3. Ordering Officers

This center employs the use of Ordering Officers. The Ordering Officer acts as an agent (under written direction from the KO) for the contracting office. Their authority

is limited to placing orders on indefinite-delivery type contracts. If you have a contract for hardware/spares where you are placing routine orders on a continuing basis, consider working with the requiring activity to assign an ordering officer to your contract. When an appropriate person is selected and trained, your work can be reduced. They should be competent, have some mathematical, computer, and communication skills, and most importantly, be able to grasp contracting concepts and methods. The policy group of the C-E LCMC Acquisition Center trains Ordering Officers.

4. Closing Statement

This section of the handbook identified the key players in the contracting world and their authority. The next section addresses your contracting “dictionary.”

B. FAR PART 2 – DEFINITIONS OF WORDS AND TERMS

1. Scope

FAR Part 2 defines words and terms, provides cross-references to other FAR Parts that use the same word or term, and allows for the incorporation of these definitions in your solicitations and contracts by reference.

2. Discussion

FAR Part 2 simply defined, pardon the pun, is your dictionary for the words and terms you use daily in the acquisition process. These definitions apply whenever the word or term is repeated throughout the regulation. Keep in mind that additional words or terms may be defined throughout the regulations that are specific to a particular part, subpart or section of the FAR as well.

3. Closing Statement

So let us pick a word that has some significance in the acquisition world: ethics. The next section of the handbook will summarize some important policies and procedures in regards to business practices by both government and contractor personnel.

C. FAR PART 3 – IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS AND INTEREST

1. Scope

FAR Part 3 establishes rules of conduct to be followed by both government and contractor personnel.

2. Discussion

Of concern is not only the behavior between government and contractor personnel but among contractors as well. In your role as a government employee you should not only avoid conflicts of interest but look further to avoiding even an appearance of a conflict of interest in government-contractor relationships. Once each fiscal year you are reminded of the significance of this topic when you are required to file your Office of Government Ethics (OGE) Form 450. Further, be reminded that violations in some instances can result in criminal and civil penalties.

3. Closing Statement

As we have seen most recently, the improper conduct of certain high-level government employees has been in the public spotlight. This part identifies your safeguards to ensure that improper practices are avoided. The next section of the handbook discusses some lessons learned in the basic administrative aspects of contracting.

D. FAR PART 4 – ADMINISTRATIVE MATTERS

1. Scope

FAR Part 4 contains information you know; you almost feel like you were born with this knowledge. For example, this is where it says the contractor normally signs the contract first and the Contracting Officer signs second. It relates to the administrative issues that go with contract execution, the upkeep of your contract files, and reporting requirements. It contains the first discussion of safeguarding classified information within industry. Two subjects, the distribution of contracts and contract reporting, are discussed below.

2. Discussion

a. Contract Distribution

Although we have moved into a paperless environment it does not relieve you of making the proper distribution of your contracts to the appropriate recipients. Although the contractor, DCMA, DFAS, and your customer get their copies either automatically through PADDS or from you in an email, the continued use of the AMSEL-AC Form 5098 ensures that the other activities that still need copies of your contract get one. Contracts requiring delivery of hardware to Army Depots need to be sent to those depots. With the onset of the war, contractors have been cooperative in acceleration of deliveries at the request of the government; however, the depot is responsible for the temporary acceptance and storage of that material. In this situation, if depot is not advised of the multiple deliveries to be made, it will be unable to accept the hardware upon delivery because it has nowhere to put it. Research and development contracts have additional distribution requirements such as to the intellectual property division of the legal office and to the Communications-Electronics Research Development and Engineering Center (CERDEC).

b. Contract Reporting

Most recently, the Department of Defense (DoD) has discontinued the use of the DD Form 350, Individual Contracting Action Report, and is now following the reporting requirements of the FAR using the Federal Procurement Data System (FPDS) Individual Contract Action Report (CAR). The information reported and captured from the CAR as well as its predecessor may be the basis of many future decisions in the DoD; the accuracy of that information is paramount.

3. Closing Statement

Although not an exciting part, it contains policy that if not followed can lead to unintended consequences. The next section of the handbook addresses publicizing your contract actions.

E. FAR PART 5 – PUBLICIZING CONTRACT ACTIONS

1. Scope

FAR Part 5 deals with the public announcement of both contracting opportunities and resultant awards.

2. Discussion

This part of FAR covers pre-award and post-award synopses, but in addition the Congressional Notification process is addressed at DFARS 205.303. Also note the automatic post-award synopsis feature that has been added to the PADDS. There is one lesson learned of note regarding synopsis of a commercial acquisition: ensure you understand the text of the numbered notes – if your strategy is a sole source acquisition you would most probably cite note 22 in your synopsis. However, the text of note 22 may conflict with the streamlining allowed by FAR Part 12 with the acquisition of commercial items. The text of note 22 is as follows: the proposed contract action is for supplies or services for which the government intends to solicit and negotiate with only one source under the authority of FAR 6.302. Interested persons may identify their interest and capability to respond to the requirement or submit proposals. This notice of intent is not a request for competitive proposals. However, all proposals received within *forty five* days (*thirty* days if award is issued under an existing basic ordering agreement) after date of publication of this synopsis will be considered by the government. A determination by the government not to compete with this proposed contract based upon responses to this notice is solely within the discretion of the government. Information received will normally be considered solely for the purpose of determining whether or not to conduct a competitive procurement.⁹ Now what are your publicizing and response time requirements in a commercial acquisition? FAR permits you to use discretion in determining reasonable timeframes as a streamlining technique. Just ensure that whatever decisions you make, your publication is consistent between the text and numbered note content.

⁹ FedBizOpps, http://www2.fbo.gov/Numbered_Notes.html. April/2007.

3. Closing Statement

So far, no pun intended, Parts 1 through 5 are not usually part of your daily research routine. As we approach FAR Part 6 and others to follow, the subject matter becomes more interesting, and acquisition issues that stem from these parts become more challenging.

F. FAR PART 6 – COMPETITION REQUIREMENTS

1. Scope

FAR Part 6 addresses the preference for Full and Open Competition and Full and Open Competition After Exclusion of Sources before Other Than Full and Open Competition is considered. It clearly states that both Sealed Bidding and Competitive Proposals are both acceptable procedures. This is also where the law that requires a Competition Advocate is implemented in our regulation. The lesson learned for this section is an innovative strategy to consider when you are acquiring spare parts.

2. Discussion

Once a contract is awarded, unless the changes clause is available for an in-scope change, either the new requirement must be competed or must be justified through the use of a Justification and Approval for Other Than Full and Open Competition. The following contingency planning technique is proposed for consideration when acquiring spares.

The following draft language was coordinated with the Competition Advocate at C-E LCMC for a specific acquisition. If this might seem to fit in your scenario your attorney should be consulted for a legal opinion. If this proposed clause is approved for use it can avoid the requirement for a J&A each time a new spare part is identified during performance.

a. Suggested H Clause for Contracts with Spares

“The items covered by this contract include the Widget-Widget and related spares. Should, prior to contract expiration, there be requirements for Widget-

Widget spares not already priced in this contract, the parties agree these spares can be included in the contract via modification once a price for these spares is established and the KO determines that the price for these spares is fair and reasonable.”

3. Closing Statement

The discussion above represents an “out of the box” approach that can be supported. This is one example of using an innovative technique to meet the future needs of the customer in a streamlined manner. There is no discussion at this time for FAR Part 7; the handbook resumes at FAR Part 8 - Required Sources of Supplies and Services.

G. FAR PART 8 – REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. Scope

FAR Part 8 covers the priorities for the use of government supply sources, and then follows with the procedures to be followed for each source. It also addresses the use of other government supply sources as well, such as leased motor vehicles and utility services.

2. Discussion

Recently we have seen much visibility in the use of General Services Administration Federal Supply Schedules. You should consider the following when dealing with FAR Part 8. First, this part and its supplement in DFARS have changed dramatically in the last few years. The ball started rolling with the implementation of Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107). DFARS imposed additional ordering procedures for services. Most recently, we have been challenged with processing approvals for use of non-DoD contract vehicles through the implementation of Section 854 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). This resulted in Subpart 217.78 being added to the DFARS. This might appear to you to be inconsistent with the priorities set forth in FAR for use of “schedules” before writing commercial contracts. Finally (for the moment), the DFARS has extended the additional ordering procedures for services to the ordering of supplies as well.

3. Closing Statement

My lesson learned here is that what you thought you knew about Federal Supply Schedule contracting is not remotely close to what it once was. I caution you to ensure that before you proceed in this acquisition arena you are well versed in the latest rules and regulations. The next section will address two critical areas in contracting, namely the determination of contractor responsibility and organizational conflicts of interest.

H. FAR PART 9 – CONTRACTOR QUALIFICATIONS

1. Scope

FAR Part 9 covers the areas of Contractor Responsibility, Qualification Requirements, First Article Testing and Approval, Debarment, Suspension and Ineligibility, Organizational and Consultant Conflicts of Interest, Contractor Team Arrangements and Defense Production Pools and Research and Development Pools. Two areas of discussion follow from this part.

2. Discussion

a. Determination of Contractor Responsibility

Although the FAR states that once the KO signs the contract the determination of responsibility has been made, when does one ever make a decision without having had facts to support it? Why should it be any different here? Ensure that your specialists have provided you with the supporting documentation for you to make that determination and place this information in the contract file. Since we do not have a pre-award survey team, the legwork is up to you to find information to support your determination. The supporting documentation should cite the source of the data in addition to the data. Remember that for contractors to be deemed responsible you must consider their financial resources, whether they deliver or perform, whether or not they have good performance history, do they stay out of trouble ethically, do they have the necessary experience, facilities, organization, etc., and be otherwise qualified to receive

the contract. It is recommended that the pre-award monitor on staff at DCMC be your first resource as they can supply you with information across all these areas that must be considered.

b. Organizational Conflicts of Interest

For the last several years we have seen that many of our defense contractors are merging with one another in some manner, whether it is a takeover or buy-out, etc. As a result, conflicts of interest are arising in the performance of some of our contracts. This is just a cautionary note that you should be aware of in this area of FAR.

Another thought on this subject is that if you are utilizing contractor support personnel in any source selection, you will have certain requirements to fulfill relative to internal approvals and notifications to contractors; however, do not forget that you should track down the contract or order under which the support contractor is performing and review it for an Organizational Conflict of Interest clause as well as ensuring that the work they will be performing is within the scope of that contract vehicle.

3. Closing Statement

Although not inclusive of the information to take away from FAR Part 9, these two areas are important enough that you should become familiar with them. The next section on market research sets the tone for the beginning of every acquisition.

I. FAR PART 10 – MARKET RESEARCH

1. Scope

FAR Part 10 sets forth policies and procedures for the conduct of market research.

2. Discussion

FAR Part 10 is one of the shortest reads; it is just over two pages yet represents the starting point of any approach to acquiring a supply or service. Generally, do not assume that when you receive your acquisition requirements package that you will have

received all the market research that you could possibly need. Be prepared for outdated material, unsubstantiated documentation, and the need to jump in feet first to help the customer survey the marketplace for that requirement.

3. Closing Statement

If there is any advice that I can offer relative to this subject it would be that at soon as you are aware that you have an acquisition coming your way, ensure the customer has started taking the steps necessary to conduct adequate market research. This next section goes hand in hand with market research – you need to define your requirement before you can identify potential sources – describe your agency's needs.

J. FAR PART 11 – DESCRIBING AGENCY NEEDS

1. Scope

FAR Part 11 sets forth policies and procedures for describing agencies needs.

2. Discussion

The discussion will address three areas: the quality of an Acquisition Requirements Package, the necessity of requirements, and the use of a Statement of Objectives.

a. Acquisition Requirements Packages (ARP)

The Logistics and Readiness Center (LRC) Policy and Information Encyclopedia (PIE) (available on the Knowledge Center), Acquisition Guide, Section 2-2.1 lays out the content documents for an ARP. This document will help a customer/engineer who may be unfamiliar with putting a package together. When on-line, there are additional links and rollovers that provide further definitions.

b. Unnecessary Requirements

Although the customer is responsible for the development of a requirement, a KO should challenge him/her when he/she does not appear to have legitimate needs. Although customers have streamlined their requirements since the

introduction of specifications and standards reform, there still may be a tendency to order unnecessary technical data. For example, I have seen a customer request weekly, monthly, and quarterly reporting on a task and I have challenged whether or not this was really necessary. Once questioned, the customer revisited the amount of data to be delivered and ultimately available for their reading pleasure and determined that the number of reports could be reduced.

c. Statement of Work vs. Statement of Objectives

A Statement of Objectives (SOO) is a new method of identifying the requirement to industry whereby the contractors deliver a Statement of Work as well as a proposal in response to the solicitation. I would recommend that when using this new approach that all parties are fully knowledgeable. My only two experiences with using the SOO have led to problems since contractors are not used to writing Statements of Work, and working through the negotiations to get to a document that could be incorporated into a contract was a significant challenge. Just be sure this is the best method of soliciting your requirement.

3. Closing Statement

Your biggest challenge does not come from understanding the area of the regulation itself when it comes to your requirement, but to the quality of the documentation that you will be given in your acquisition requirements package. The next section begins the first of four parts of FAR that deal specifically with the acquisition strategy itself.

K. FAR PART 12 – ACQUISITION OF COMMERCIAL ITEMS

1. Scope

FAR Part 12 sets forth the policies and procedures unique to the acquisition of commercial items.

2. Discussion

There are three points I would like to address relative to this section. First, when soliciting for a commercial item or service note, the KO has the authority to proceed with IAW FAR Part 13, Simplified Acquisition Procedures, FAR Part 14, Sealed Bidding or FAR Part 15, Negotiation in conjunction with FAR Part 12. Second is a warning regarding clause selection for your solicitations and resultant contracts. It is recommended that you use the FAR matrix as a head start in the development of a solicitation and avoid dual use of clauses as the Part 52.212 cites contain many other FAR/DFARS clauses and commercial versions of many other clauses that might be necessary. Finally, an area of misunderstanding is the inspection and acceptance of commercial items. In working with your customers, ensure that they understand the change in contract management and what inspection and acceptance means in terms of a commercial acquisition. Some customers are still gun shy in allowing a contractor to deliver without having had the government conduct a battery of tests and inspections. The tendency is to incorporate into the statement of work the inspection and acceptance language that is necessary for non-commercial items.

3. Closing Statement

Commercial acquisition is increasing and expectations are high that we will continue to move in the direction of doing business more like the public sector, therefore do your best to educate your customer base on this “new” type of acquisition. In FAR Part 13, note that there is a test program in place that allows the use of simplified acquisition procedures for commercial items in amounts greater than the simplified acquisition threshold.

L. FAR PART 13 - SIMPLIFIED ACQUISITION PROCEDURES (SAP)

1. Scope

FAR Part 13 sets forth the policies and procedures for the acquisition of supplies and services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold (see

2.101). Subpart 13.5 provides special authority for acquisitions of commercial items that exceed the simplified acquisition threshold but do not exceed \$5 million (\$10 million for acquisitions as described in 13.500(e)), including options.

2. Discussion

The threshold for simplified acquisition procedures is \$100,000, and as a result there are streamlined procedures in place for these acquisitions. However, negotiated change orders that cause the amount of the original contract award to exceed the SAT require the preparation and documentation of a negotiation objective and a negotiation memorandum once an agreement is reached. Simplified acquisition procedures should not be considered in this type of situation.

3. Closing Statement

Simplified acquisition procedures are used more frequently today since the threshold is increased by the test program when commercial items are being acquired. The next section, Sealed Bidding, although not used as frequently here at C-E LCMC as it was in the past (since the forward move to the use of best value acquisition), has given “birth” to an innovative technique entitled Reverse Auction.

M. FAR PART 14 - SEALED BIDDING

1. Scope

FAR Part 14 sets forth the basic requirements of contracting for supplies and services (including construction) by sealed bidding: the information to be included in the solicitation (invitation for bids); procedures concerning the submission of bids; requirements for opening and evaluating bids and awarding contracts; and procedures for two-step sealed bidding.

2. Discussion

Before discussing the technique of Reverse Auction I would like to offer a thought on the use of Bid Samples.

a. Bid Samples

Bid Samples may be utilized as part of an evaluation, but the team should be sure that this approach is appropriate (the benefits should outweigh the costs). There are times when in retrospect, the samples did not help the evaluators nor did it shorten the delivery time of the selected hardware. Samples only served to increase the proposed costs to the s.

b. Reverse Auction

The reverse auction is an innovative technique used here at C-E LCMC that you will not find described in FAR Part 14. Although this method of acquisition results in significant savings, each KO is cautioned that they should have firm commitments from at least two bidders before conducting the auction. Once the auction is underway, if one bidder puts his starting price out there and there is no activity on the part of a competitor, it may be difficult to make a determination of a fair and reasonable price at the conclusion of the auction.

3. Closing Statement

Although we have certain requirements that are properly acquired through Simplified Acquisition and Sealed Bidding, I would venture a guess that each of you reading this handbook will find that at the end of your careers you will have spent a majority of your time in the world of negotiation, whether it is on a sole source or competitive basis. I state this here as this next chapter will contain an extensive amount of information gained from my 25 years of contracting.

N. FAR PART 15 - CONTRACTING BY NEGOTIATION

1. Scope

FAR Part 15 sets forth the policies and procedures that govern competitive and noncompetitive negotiated acquisitions.

2. Discussion

Discussions will concentrate on documentation for a negotiated acquisition whether competitive or non-competitive, evaluation criteria, and other topics relative to conducting a source selection. At the conclusion of this section are a myriad of lessons learned and thoughts to ponder in the negotiation environment.

a. Preparing Negotiation Objectives

When utilizing the support of the Sector Price/Cost Analysts to develop meaningful/**appropriate** profit/fee objectives, it is important that you provide them with sufficient information about your acquisition. Your first step is to understand your requirement first. The DFARs lay out "normal" factors/percentages/rates; however, it also allows for deviations above and below those "norms" when **certain conditions exist** (see examples in DFARS). It is the **responsibility of the contracting specialist and the KO** to work with the analyst in determining what alternate values might be used and why. This basis for alternate values should be a part of your discussion in the ultimate preparation of the Pre-Negotiation Memorandum under profit/fee analysis and must be **supportable**. In the absence of any specific guidance, the analyst will base the Weighted Guidelines on normal values only, which could result in either higher or lower profit objectives than might be appropriate.

b. Audit vs. Agreed Upon Procedures

The Defense Contract Audit Agency (DCAA) is facing the same cutbacks in personnel as the Center has faced over the last few years and, as a result, has established an alternative to audits. When you request field pricing support and need that support quickly, the auditors may recommend a review that results in "Agreed Upon Procedures" in which the auditors do not certify the information. This is not an audit. As you reach the cost and pricing data threshold and determine that you need some type of field pricing support, understand the difference between an audit and "Agreed Upon Procedures." From what our DCAA Liaison has stated, an audit will not add that much more time to the accomplishment of the review so if your acquisition is sensitive or you need significant support, consider waiting for the audit.

c. Source Selection

This is one of the most challenging yet exciting aspects of acquisition. With the many problems encountered in every acquisition, there is an equal amount of experience to be gained. Due to its size, a significant amount of information is in this subject area.

d. The Development of the Source Selection Plan

This section discusses the selection of evaluation criteria for the Tradeoff Process under the Best Value Continuum. It covers general guidelines to Program Managers (PM)/KOs and focuses specifically on two factors in evaluations that are commonly addressed by the contracts team: Performance Risk and Small Business Participation. The FAR states that price/cost is a required factor in every source selection; however, this factor is not discussed as part of this guide. “Best value” as defined in FAR Subpart 2.101 means the expected outcome of an acquisition that, in the government’s estimation, provides the greatest overall benefit in response to the requirement. One source selection approach under best value, the Tradeoff Process, permits tradeoffs among cost or price and non-cost factors and allows the government to accept other than the lowest priced proposal, and is found in FAR 15.101-1(c). The FAR further states in Subpart 15.304 that the evaluation factors and significant subfactors are to be tailored to an acquisition and must represent the key areas of importance and emphasis to be considered in the source selection decision. They must also support meaningful comparison and discrimination between and among competing proposals. So what non-cost factors should be chosen?

e. Evaluation Criteria

The PM/KO is given latitude in selection, but what is required is some assessment of quality, past performance (when meeting certain dollar thresholds), and the extent of participation of small businesses, small disadvantaged businesses and historically black colleges or universities, and minority institutions in performance of the contract (when meeting certain other acquisition conditions).

Quality may be interpreted to mean the technical assessment of an Offeror's approach to meeting the government's requirements. So how is the criteria defined to make this technical assessment? The first question that should be asked is "what are you buying?" Because the acquisition process is looking for the Offeror who can provide it with the best overall value, the KO needs to identify the technical areas that are critical to the program. Consider where you are in the Defense Acquisition Management Framework, but at the same time remember that what might not be as meaningful during system development might be necessary once your requirement is in the Operations and Support phase. One thing your requiring activity needs to understand is that not everything the contractor will be required to do once under contract should be deemed important when establishing evaluation criteria. You do not want to evaluate everything. Keep in mind if a particular requirement is not evaluated, it will not relieve the contractor of the responsibility to respond to that requirement and perform successfully if he receives the award. Logically thinking, if the contractors can propose to the "critical" capabilities, they can more than likely perform the balance of the requirements as well.

The process must select for evaluation areas that set contractors apart from one another; these are sometimes referred to as discriminators. Ask a lot of questions and look within the Integrated Product Team for ideas. What piece of technology might be offered by one contractor but not another? This thought should lead you to thinking that you do not want to evaluate what everyone is able to offer – set minimum limits and look beyond them to identify your criteria. Has the user been queried as to what functions are meaningful to them? What problems have they experienced in the past and what was required to correct them? Was there something overlooked in a previous acquisition that is meaningful to the new acquisition? Will logistics be an issue once the item is fielded? Can the item manager offer insight as to the item's lifecycle and its support. Look also to criteria that might be related to risks. Is it feasible to push the envelope for something better than what we have now, technically? Once you identify a universe of potential criteria, pare it down to those that ultimately reveal differences between proposals. A final thought though - less is better. The more technical criteria you select the more

complicated the evaluation becomes and each criteria's value wanes – having too many discriminators defeats their value. Finally, ensure what you do select is well defined.

When establishing your evaluation criteria, allow for flexibility. Although you have a specific need, in the relatively new environment of performance-based acquisition, allow and expect contractors to have different approaches to solving your problems. Anticipate newfound ideas and remember you are contracting with industry because they are the experts in their fields and the government does not always have the expertise or manpower in house to meet its needs.

Be wary of using management or personnel as key evaluation criteria. In both cases, what you have just evaluated and considered in the source selection determination can be changed the day the award is made. In today's world, companies are consolidating and restructuring, the private sector is competitive, and personnel may move from one firm to another. If either of these criteria is important to your customer, they might be better evaluated as part of performance risk. Personnel can be assessed through a company's recruitment and retention history.

Remember, each of the criteria that you select is going to be worth some "value" – you do not want to throw that value away.

f. Performance Risk

As stated earlier, KOs and their teams more than likely become involved in the past performance evaluation, also referred to as performance risk. By its nature, this volume of information is familiar to the contracting community as it refers to a contractor's performance of their previous and ongoing contracts and post-award contract administration is at least as important, if not more, than pre-award. The taxpayers' dollars have been obligated, and now you have to ensure that the government gets what it has bargained for. Think how often you select your service/product providers in your personal life based upon their track record of performance, recommendations of others, or because of reputation.

In the evaluation of performance risk, FAR 15.305(a)(2) requires that we consider currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance. It also infers that contractors are not required to have had performance history in providing the identical requirement or service. Efforts performed may have been similar in nature as well. In addition, contractors are not restricted to providing performance history through government contracts only. What becomes important in the performance risk evaluation is the relevancy and recency of the data submitted as well as the general nature of the contracts evaluated. So what is considered a relevant contract? It may be defined by the technical scope of work to be performed, or a subset thereof, and it may also include references to contract type and complexity of the work. When defining relevant, be careful about being too restrictive in your definition as well as being too open-ended. In the former case you could end up basing performance risk on literally one contract, yet in the latter case, you might have hundreds of contracts to assess. Although the PM/customer should determine the technical definition of relevant, the KO should assist in determining what other "contractual" issues may be meaningful as well. For example, if the proposed acquisition is to be accomplished on a Firm Fixed Price basis, one would not necessarily be interested in evaluating the containment of costs on cost-type contracts.

How recent should the contractual performance history be? What is being acquired may help to answer this question. In the world of information technology, contract performance two or three years back may no longer be meaningful, whereas in the delivery of end items, this same time frame may be considered reasonable in light of limited development or production lead-time. Another consideration is that the longer the length of performance, the more information must be evaluated.

As recommended by regulation, contractors should be advised to disclose performance issues on any of their relevant contracts and what corrective actions were taken to avoid recurrence. Caution is advised when using this criterion because when government personnel are contacted for feedback as part of the evaluation, a contractor's presentation of events may be contradicted. This then leads to determining who is telling what truth.

One last element that shall be included in the performance risk evaluation is an Offeror's compliance with the terms of the clauses at FAR 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns and FAR 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

g. Small Business Participation

The last criterion discussed is the evaluation of a Plan for Small Business Participation. This is applicable to acquisitions conducted by the Department of Defense. DFARS 215.304 requires this in acquisitions that require use of the clause at FAR 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan. This plan represents the extent of participation of small businesses and historically black colleges or universities and minority institutions in performance of the proposed contract.

The DFARS recommends evaluation criteria that include the extent to which such firms are specifically identified in proposals, participation in terms of the value of the total acquisition, and any related commitments that may have been established between the prime contractor and proposed subcontractors. In order to determine value, the evaluation criteria may include the selection of percentage goals. For example, a goal of twenty percent may be set as an expectation of the total contract value for small businesses.

Proposed participation by these firms should be meaningful as well. This relates to the complexity and variety of the work that the small firms are slated to perform. In a major weapons system acquisition with opportunities for sharing in the performance of the requirements, prime contractors should encourage small business entities to participate.

This criterion is important for several reasons. It is United States policy that small businesses are afforded the maximum practicable opportunity to participate in federal contracts. Additionally, the government is an advocate for the development of small businesses for DOD. Many of the best and brightest ideas come from small

businesses. The Small Business Innovation Research (SBIR) Program Reauthorization Act of 2000, enacted through Public Law 106-554, supports this perspective. This program was initially established in 1982, reauthorized in 1992, and the current act allows for its continuance through September 30, 2008. The SBIR program acknowledges the unique technical capabilities possessed by small businesses and the successes that have been gained in many high-technology fields. Finally, providing opportunities for small business also stimulates the creation of jobs, which then has a positive affect on the economy.

The most important aspect of a participation plan is its realism. Ensure that what is proposed appears feasible and is appropriate in terms of risk in accomplishing the requirements. What also remains important in this criterion are the supportive initiatives proposed or explanations of why certain participation cannot be achieved. Finally, the DFARS calls for the evaluation of an Offeror's track record in compliance with small business requirements in prior contracts.

Some ideas and thought processes that could assist you in the development of evaluation criteria for source selection and other criteria that are mandated by regulation are discussed in the following section. Also, some background as to why the evaluation of performance risk and small business participation are important is provided. Source selection, especially the use of the trade-off process, although very challenging, provides a wealth of experience for any KO, and is an opportunity worth seeking. The first is the toughest, but they become more rewarding as they progress.

What follows are some additional ideas/lessons that can be used when conducting source selection.

h. Instructions to Offerors and Evaluation

Administratively, ensure that your customer understands that the clauses that go into Sections L and M of the solicitation are extracted directly from the approved Source Selection Evaluation Plan. Customers sometimes draft them as independent documents, and as a result they do not read the same as those in the plan. If you get two

versions, immediately work with your customer to utilize the better version and insert it into the plan if it is not already there, and discontinue use of the other documents.

i. Proof, Proof and Proof

If there was ever a time to take a few minutes more and review what documents have been provided to you, this is it. Most importantly, Section II of the source selection plan becomes the provisions in your solicitation (word for word). Do not treat the plan as if it is a unique document separate from sections “L” and “M.” Work with the plan, finalize it, and extract the finalized sections for your solicitation.

Check spreadsheets – if you are providing documents to be completed by contractors, check the cells and the formulas, and freeze the areas of the sheet that are not to be manipulated by the contractors. This saves extensive time in the evaluation process.

Be careful of the numbers selected as evaluation quantities when using ranges. Run a sample sheet either using the IGE or another estimate as to the unit prices for an item and see what you get. Make sure it appears realistic and they are within a reasonable range from your Independent Government Estimate or Ceiling.

j. Draft Contracts

Use draft contracts prior to Requests for Final Proposal Revisions to capture the terms and conditions agreed upon through Items for Negotiation/Discussions – this reduces the time for the successful contractor’s review of the contract before signature and negates an opportunity for a later challenge prior to award.

k. Terminology

Before you begin a source selection, note that the term “Negotiations” has multiple meanings since the Federal Acquisition Streamlining Act came out in the mid-1990s. The appropriate term to use is “exchanges” with Offerors and there are three types: clarifications, communications, and discussions. Each category of exchange has different guidelines and occurs at different times after receipt of proposals. FAR 15.306 provides all the details.

l. Who Gets the Amendment?

One aspect of the solicitation process that I found surprising was that you could amend a solicitation in a negotiated procurement after it closed. Once the solicitation closes, the FAR permits the release of amendments to those Offerors who have submitted a proposal, and if there is still a need to amend at a later time, to those in the competitive range. Of course this is not necessarily a normal situation, but it is permitted when necessary. Just be cautious and ensure that a determination is made that whatever changes are made to the requirements at one of these late stages will have no impact on the outcome of each solicitation phase (e.g., no other contractors would have submitted proposals or the competitive range would not have been different). Remember to incorporate amended portions of your solicitation into your final contract.

m. Capturing Strengths and Agreements

Also remember to incorporate agreements made between the government and the successful Offeror during discussions into your resultant contract. For example, the contractor has submitted some unique technical aspects in his proposal that the government wants the contractor to commit to in performance. Another example might be a unique clause relative to price adjustment when certain conditions exist in the future. Ensure that the resultant clause is not ambiguous. You are closest to your program and understand all the details; however, you have to consider that someone may administer or monitor your contract in the future and they must be able to understand and enforce these unique terms and conditions.

n. Unique Clauses

When you write unique clauses for incorporation into your solicitation or contract, ensure that they are not too restrictive, nor ambiguous. For example, if the government plans on making multiple awards and your goal is three, rather than stating that the government intends to make three awards, state that the government reserves the right to make ***up to three*** awards.

o. Sharing of Price/cost Information to the Technical Team in a Source Selection

Although it is normally frowned upon to allow the technical evaluators insight into costs/prices of proposals, there may be times when you need to get your Technical Factor Chairman involved. For instance, if the proposed prices on a solicitation are extremely different between the Offerors, the Technical Chairman can be given access to the cost/price proposals. Without his insight into the proposed technical approaches, the variances in the proposed prices might not be reconciled. As long as your evaluation is conducted above reproach, this action is appropriate.

p. Your Role as an Editor

Preparing for briefings to the Source Selection Advisory Council and/or Source Selection Authority is a time-consuming exercise. Although the Source Selection Evaluation Board (SSEB) Chairman is responsible for the handling of the evaluation, you still have accountability for your acquisition. The KO is responsible for the documents, which quite often requires editing responsibilities. Ensure that the reports, items for negotiation, and briefing charts all contain consistent information. Ensure that if weaknesses or deficiencies are identified in the report or on a chart that an associated Item for Negotiation (IFN) has been written as well. Ensure IFNs are written in the form of a question and that the question is direct and not ambiguous. The FAR states that discussions must be meaningful. If the question is not written adequately, the response you receive may be inadequate as well, leading to having to ask another question. When possible, conduct a “murder board” with your SSEB. Act as an outsider looking in and query the strengths, weaknesses, and deficiencies. You may find duplication of issues, deficiencies that should be weaknesses and vice versa, or other potential issues. Ensure that strengths are really strengths. Use the definitions in the source selection plan as your guide to make these determinations. The bullets on the associated briefing charts are important as well. Selection of incorrect words/phrases can beg questions. A weakness for one Offeror may appear to be a strength for another and this should be avoided. A session with your evaluators and your legal advisor all present at the same time provides for meaningful discussion and can actually help everyone in the process understand all

points of view. You will invariably find that your attorney provides constructive criticism from a different point of view than yours, and what you must accomplish is concurrence by all parties including the evaluators.

q. Briefings/Debriefings

It is strongly encouraged that you conduct dry runs of any briefings that you might conduct during a source selection, whether it is to industry or for internal requirements. You should have the attorney present as well as the technical activity.

r. Letter Request for Proposals

The KO may use letter Request for Proposals (RFP) when the acquisition is sole source and in other appropriate circumstances; however, they should generally only be used when it is intended to add a requirement to an existing contract, whether it be through a new work modification or the changes clause. You should be cautioned that although this is a streamlined method of releasing a solicitation, it does not relieve you of complying with other FAR requirements. If you are dealing with a new work modification, any new FAR or DFARS clauses that have been designated for use after award of your existing contract must be added to your resultant modification. In addition, pre-award requirements remain necessary as well. FAR 15.203(e) sets forth the minimum information that should be included.

s. Industry Days, Pre-solicitation and Pre-proposal Conferences

Utilization of these venues is recommended when your acquisition is complex or in cases where you deem it appropriate that this method of communication is in the government's best interest. You ultimately want your requirements to be understood by all potential Offerors. We now operate in an environment of sharing information with contractors, which is contrary to old practices. Contractors also find these conferences an opportunity to network with potential team members. In addition, these meetings provide small business subcontracting opportunities. When utilizing any of these methods in communicating with industry about your acquisitions it is recommended that you do the following:

- Conduct your brief in an organized manner
- Prepare an agenda and try not to deviate from it
- Ensure that each person with a role understands the parameters of their responsibility
- Prepare a script and associated charts in advance
- Set aside a time for the preparation of written questions, and then caucus to prepare answers with your team (technical and legal)
- Publicly post the attendance list, briefing, and questions and answers so that any potential Offeror who could not attend now has access to the same information as those who attended.

3. Closing Statement

Even with as many issues as I have brought to your attention in negotiation, there are so many more that you will face in this acquisition environment. Learn from each experience and apply the analogy when you can to another situation. By coincidence, the next section addresses contract types which happen to be negotiable.

O. FAR PART 16 - TYPES OF CONTRACTS

1. Scope

This part describes types of contracts that may be used in acquisitions. It prescribes policies and procedures and provides guidance for selecting a contract type appropriate to the circumstances of the acquisition.

2. Discussion

The discussions in this section concentrate mostly on Indefinite-Delivery Type contracts and Fair Opportunity, but also address some issues with cost-type contracts as well.

a. Maximum Quantities

Ensure that if you are administering an Indefinite-Delivery type contract, you are monitoring Delivery/Task Order totals and running a cumulative total for the contract(s) to ensure that the approved maximums are not exceeded.

b. Purchasing Contract Line Items for Technical Data

Purchases under Indefinite-Delivery Type Contracts are made by the Delivery Orders themselves, not the contract. If you do not identify the purchase of line items for the Contract Data Requirements List (CDRLs) in the Delivery Order (such as a warranty report, funds status report, etc.), the contractor is not going to deliver them. This is especially important in Omnibus contracts where various CDRLS have been identified in the basic contract as available for use in subsequent Delivery Orders. Ensure your Task Orders to the contractors clearly identify what CDRLs are being purchased with each order as each customer picks and chooses what is appropriate to the needs of the acquisition. This also applies in repair/maintenance contracts. If your contract was negotiated with line items for CDRLS and you do not add them to each delivery order as appropriate, your contractor will not deliver them.

c. Evaluation and Selection of Contractors in Multiple Award Task Order (MATO) Contracts

When issuing a solicitation for the award of multiple Indefinite-Delivery type contracts where the resultant orders are managed through the fair opportunity process, there are no provisions/clauses in the FAR/DFARS that lay out the detailed procedures for how competitions are conducted. Your requiring activity in developing their Performance Work Statement is primarily thinking about technical requirements and they may not realize that this information should be made part of the Performance Work Statement as well. When developing the procedures, walk through the potential scenarios, awarding through fair opportunity, and processing an order using one of the exceptions, one offer received, etc. Ensure you have the ability to handle each situation appropriately.

d. Fair and Reasonable Price Determination

When placing task or delivery orders against Indefinite-Delivery Type contracts (whether they be sole source or as the result of fair opportunity), you must still continue to ensure that you are receiving a fair and reasonable price. Although you may have awarded a contract for the delivery of certain hardware or spares under a long-term

contract, for example, and your ordering prices were established to be fair and reasonable at the initiation of that contract, you must still make that determination with each delivery order issued. Your analysis is different depending on where you are in the ordering period of the contract. If you are in the fifth year of the contract, for example, a reasonable argument can be made that today's prices could be better if the contract was re-solicited. Think about the following example when you are making that determination. Before exercising an option, you are required to make a determination that the prices offered by that option are better than what is available in the current market, or that the option is the more advantageous offer. Conducting a similar value analysis can satisfy your fair and reasonable price determination in placing orders. You may also have contracts issued for similar items that you may be able to compare prices against, or you can reasonably ascertain that the prices are still good using other price analysis techniques.

e. Cost Plus Award Fee

When establishing award fee periods on award fee contracts, you should consider using events as milestones instead of firm calendar dates. What this provides for is the loss of opportunity for a fee when a program experiences delays. When setting milestones, ensure they are critical and that they do not occur too often, as there is a significant amount of administrative work in supporting the determinations for approval by the Award Fee Determining Official. While it may be an overly obvious statement, a yearly review has about one-fourth the effort of quarterly reviews.

f. Cost Type Contracts

When you have Incrementally Funded (R&D) cost-type contracts, ensure that you fund the cost, cost of money, and fee commensurate with its value in the total contract price.

3. Closing Statement

Although I have only addressed a few issues relating to Part 16, you will also find that the flexibility that FAR provides will also support alternate contract types – hybrid

that is. Be prepared for contract types described as T&M Award Fee and Award Term contracts, the latter of which resembles an option except for the rights associated with the extended period. In Award Term contracting, if the contractor performs to a certain standard the government is obligated to continue the services with the contractor as long as there is a continuing need. This is different than the exercise of an option – the unilateral right of the government regardless of the contractor's performance. Coincidentally, some thoughts about options are addressed in the next section.

P. FAR PART 17 - SPECIAL CONTRACTING METHODS

1. Scope

FAR Part 17 sets forth the policies and procedures for the acquisition of supplies and services through special contracting methods, including multi-year contracting, options, and leader-company contracting.

2. Discussion

The discussion will include Multi-year Contracting and Options.

a. Multi-year Contracting

There are several instances in the FAR where it discusses multiple year contracts, yet this reference is not intended to refer to multi-year efforts. Ensure that you distinguish between the two. A multiple year contract is one such as an Indefinite-Delivery Type contract for five years or a research and development effort with a thirty-six month continuous period of performance. A misunderstanding here causes the use of very specialized clauses that are not appropriate for your solicitation/contract.

b. Options

An option provides the ability to buy more of something later down the road in a shorter period of time when certain limitations are met. Yet the option and its use are often misunderstood. Files must be documented twice – once to entertain its use and later when you determine it is in the government's best interest to exercise it. Most importantly, this unilateral ability to exercise options can be lost in three ways. First, for

an option to be exercised it must have been evaluated before it was incorporated into the contract. Second, they are forgotten and expire. Third, the language of an option clause was misunderstood when it was completed at time of award and the terms for exercising it are not followed.

When setting the option exercise period it is highly recommended that you provide for two things. First, offer the greatest flexibility to the customer in the exercise period for the option. Second, consider tying the exercise of the option to an event in lieu of using a calendar date or timeframe. If throughout performance, an event slips, your exercise period slips with it. Also, keep in mind that the timeframe for exercising the option is important to the contractor; the longer the option exercise period the greater risk he/she is taking.

Be mindful that selection of the proper option provision is important, and if more than one option provision is necessary due to a contract for both supplies and services, it is good practice to reference the appropriate option provision in the schedule under the CLIN/SLIN it applies to.

Ensure you are using an option in the proper circumstances, and know when using an option does not make sense. The documentation associated with this decision process is a Determination and Findings, and there are two of them - one for use of the option in the first place and the second is prior to exercising it.

3. Closing Statement

There is no discussion at this time for FAR Part 18. The handbook resumes at FAR Part 19, Small Business Programs.

Q. FAR PART 19 – SMALL BUSINESS PROGRAMS

1. Scope

FAR Part 19 implements the acquisition-related sections of the Small Business Act (15 U.S.C. 631, *et seq.*), applicable sections of the Armed Services Procurement Act (10 U.S.C. 2302, *et seq.*), the Federal Property and Administrative Services Act (41 U.S.C. 252), section 7102 of the Federal Acquisition Streamlining Act of 1994

(Public Law 103-355), 10 U.S.C. 2323, and Executive Order 12138, May 18, 1979. It covers the determination that a concern is eligible for participation in the programs identified in this part; the respective roles of executive agencies and the Small Business Administration (SBA) in implementing the programs; setting acquisitions aside for exclusive competitive participation by small business, HUBZone small business, and service-disabled veteran-owned small business concerns; the certificate of competency program; the subcontracting assistance program; the “8(a)” program, under which agencies contract with the SBA for goods or services to be furnished under a subcontract by a small disadvantaged business concern; the use of women-owned small business concerns; the use of a price evaluation adjustment for small disadvantaged business concerns, and the use of a price evaluation preference for HUBZone small business concerns; the Small Disadvantaged Business Participation Program; the use of veteran-owned small business concerns; and sole source awards to HUBZone small business and service-disabled veteran-owned small business concerns.

2. Discussion

Discussions in this section will center on the Small Business Innovative Research Program, the North American Industry Classification System (NAICS) Code, and a tidbit regarding the processing of the DD Form 2579, Small Business Coordination Record.

Each year the C-E LCMC Acquisition Center awards a large number of contracts through the Small Business Innovative Research Program, a set-aside small business program. There are multiple phases to the program, the most common being the Phase I awards which are less than \$100,000 and usually a firm-fixed price, and the Phase II awards which are usually cost-plus-fixed-fee and are estimated at \$750,000. The comments below are primarily relative to Phase I acquisitions. When an Acquisition Requirements Package (ARP) is assigned to your team, the first thing to remember is that it is no different than any other acquisition. However, it does have some unique qualities. First, the solicitation phase has been completed and the contractor you will be negotiating with was selected competitively, although it will appear as if you are dealing with a sole source. Secondly, the DoD solicitation that your contractor responded to was incomplete

as to the terms and conditions (clauses) and representations and certifications that otherwise go into our solicitations/contracts. As a result, it is wise to develop a solicitation document in PADDS (which will ultimately be the contract document) and include CDRLs (DD Form 1423's) and your Schedule B with CLINS/SLINS so the contractor can determine if anything in the document will have a financial impact on his/her original proposal. Sometimes the contractor proposes quarterly reports yet your engineer wants them monthly, etc. These are small issues that need to be brought to the contractor's attention before negotiating. Third, you are still responsible for making a determination of a fair and reasonable price. Your ARP should contain technical evaluations setting forth as to why this Offeror was selected a winner of a Phase I contract, and in addition, the standard technical evaluation of the elements of cost in the proposal (labor categories, hours, mix, kind and quantity of materials, travel, subcontracts, etc).

Your preparation of a Pre-Negotiation Objective Memorandum is the same as with any negotiated sole source acquisition. Just because a Phase I award is low in dollar value and has minimal information does not negate your responsibility to negotiate. Since the SBIR program is a research and development effort, it is critical that you look for assertions in technical data or computer software which are missed many times by the technical evaluator. This should be brought to your engineer's attention and reviewed by an attorney that specializes in Intellectual Property in the Legal Office. These assertions, of two types, are submitted in response to either DFARS 252.227-7013, Rights in Technical data – Noncommercial items or DFARS 252.227-7014, Rights in noncommercial computer software and noncommercial computer software documentation. These assertions are documented in the contract through the drafting of a special clause to be placed in Section H of your contract that is entitled either identification and delivery of data to be furnished with restrictions on use, release or disclosure, or identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release or disclosure. Although this situation is part of the SBIR Program discussion, it also applies in any acquisition where a contractor asserts his/her rights.

Although the Phase I contracts are a firm-fixed price, many of these contractors might move into Phase II awards in less than a year, and in order to receive a cost-type contract they must have an approved accounting system. In your discussions with DCAA and the contractor, it is a good idea to query him/her on this issue to save time down the road. This program is one way for small businesses to get their foot in the door, and if they are looking to do future business with the government, it is a wise move to have an accounting system approved by DCAA.

Your SBIR was already synopsized when DoD issued their solicitation, so you must draft a memorandum for the record (memorandum for record = MFR) stating why the action is not synopsized. There is an exception in FAR Part 5 for this.

The DD Form 2579 to the Small Business Office is for information only, so they can keep track of the small businesses receiving awards.

a. NAICS Codes and Size Standards

I have noted in many post-award reviews that the NAICS code and size standard selected for the acquisition was not specified in the solicitation. It may have been synopsized but not documented in the request for proposal. Keep in mind that in order for a contractor to certify as to its business size he/she needs to know the size standard for that particular acquisition. It may very well be that a business may qualify as a small business on one acquisition and yet be a large business on another if the contractor has multiple core competencies. Keep this in mind when reviewing your solicitations.

b. Strategy Change

Another lesson from this part is procedural relative to the DD Form 2579. When is re-evaluation of the 2579 required? Refer to block 18 of the DD Form 2579, which states: "NOTE: any change in the acquisition plan this coordination record describes will require return for re-evaluation by the SB specialist." Therefore, any solicitation number change (or any other change) requires re-evaluation of the 2579 by the SADBUO. Coordinate with SADBUO to determine if it is something simple to

accomplish via a handwritten change and be redistributed rather than create a new DD Form 2579. However, if fiscal years are crossed, a new 2579 is preferred.

3. Closing Statement

I have only addressed two small topics that come out of FAR Part 19. This is one of the more lengthy areas in FAR and your familiarity with this part is recommended. There will be more to come. FAR Parts 20 and 21 are reserved and there is no discussion at this time for FAR Parts 22 through 26. The handbook resumes at FAR Part 27, Patents, Data, and Copyrights.

R. FAR PART 27 – PATENTS, DATA, AND COPYRIGHTS

1. Scope

FAR Part 27 prescribes policies, procedures, and contract clauses pertaining to patents and directs agencies to develop coverage for Rights in Data and Copyrights.

2. Discussion

Not one of my favorites – even after twenty or so years I still find this to be a challenging subject but now I have finally grasped the basics – “Limited rights” means the rights of the government in limited rights data and “Restricted rights” means the rights of the government in restricted computer software. As previously mentioned in the SBIR discussion in the area addressing FAR Part 19, the recommended takeaway is to be aware of a contractor’s assertion of rights in data and computer software. Do not depend on your technical evaluator to unilaterally address the assertions in a technical evaluation. You need to take the action on your own to have the assertions reviewed by both your technical activity and the patent attorney in the Intellectual Property division of the legal office. The final action on your part will be the development of a special clause for your resultant contract. There have been situations where the assertions slipped through the cracks and the government improperly used data – you do not want to be in a situation where there are claims against the government for misuse of data.

3. Closing Statement

There is no discussion at this time for FAR Parts 28, 29, 30, 31, 32, 33, 34, 35 and 36, except for recommendations to seek expertise from legal for FAR Parts 29, and 33, Taxes and Protests, Disputes and Appeals, respectively, and from DCAA regarding FAR Parts 30 and 31, Cost Accounting Standards and Administration and Contract Cost Principles and Procedures, respectively. The handbook resumes at FAR Part 37, Service Contracting.

S. FAR PART 37 – SERVICE CONTRACTING

1. Scope

FAR Part 37 sets forth the policy and procedures that are specific to the acquisition and management of services by contract. This is where performance-based acquisitions are addressed (see Subpart 37.6). Also note that there are FAR Parts specific to certain types of services; additional guidance for research and development services is in Part 35; architect-engineering services is in Part 36; information technology is in Part 39; and transportation services is in Part 47. Parts 35, 36, 39, and 47 take precedence over this part in the event of inconsistencies. The discussion below will touch on performance-based acquisitions and on fiscal issues related to service contracting.

2. Discussion

Discussion in this section will be on Performance-based Services and Fiscal Issues to consider when acquiring services.

a. Performance-based Acquisitions

The most significant challenge you will face is the development of metrics to measure the performance of contractors in service contracting. It takes a thorough understanding of what tasks are to be performed and what are the critical things that we want to measure to determine successful performance. Try not to measure everything, but at the same time ensure that they are meaningful and the standards set against them are realistic as well. For example, in a service contract for information technology support, network availability might be a critical thing worth measuring; however, setting

the standard at 100% might be unrealistic. We all know that any email system has some down time – so what is a reasonable move off of 100% - maybe ninety five percent of the time. This is what would be considered acceptable performance.

b. Fiscal Issues

Some of the more important points for you to be aware of in service contracting are not contractual in nature but are based on fiscal law. The best advice when facing fiscal issues in service contracting is to involve the comptroller for fiscal interpretation as well as an attorney to ensure that there are no violations in your actions. A few guidelines are set forth below.

c. OMA Funding Guidance on Service Contracts

The funding of contract actions on service contracts is a continuous source of questions. Some clarification is provided below as a guide relative to the most common fiscal issues; however, when in doubt, consult the comptroller and/or the legal office for assistance.

Work must be fully funded at the same time that the contractor is actually contractually obligated to perform work.

When OMA is determined to be the appropriate source of funds for an effort, you must obligate sufficient OMA funds when you award the effort to fully fund that effort. If you contractually obligate a contractor to perform a certain amount of work, then you must fully fund the amount of work that you are obligating the contractor to perform. The period of performance of the effort determines the amount of funding needed, as it sets forth the time period that the contractor is obligated to perform the work as well as the amount of money needed to perform that work.

When using OMA funds for severable services, the period of performance cannot exceed a period of one year, but may cross fiscal years.

Incremental Funding is funding a Research and Development contract in yearly increments based on the success or failure of the previous stage. It is NOT partially funding a contract for less than required due to funding constraints.

Here is an example to illustrate:

This example is based on a basic contract period of six months with an option period of six months. The basic award has a period of performance from January 15, 2004 to July 14, 2004, and contains a six month option period of performance commencing on July 15, 2004.

• **Basic Award**

The amount of FY04 OMA funds awarded on this effort must fully fund the basic period of performance (January 15, 2004 to July 14, 2004) as the contractor is obligated to perform during that period of time, and is NOT obligated to perform beyond that time period.

• **Option Award**

Since period of performance on the option is July 15, 2004 to January 14, 2005, which begins in FY04, this would also be funded with FY04 OMA funds at the time of that the option is exercised. The amount of FY04 OMA funds has to be sufficient to cover the complete period of performance that ends January 14, 2005.

• **Conclusion**

Since we are dealing with separate periods of performance (one, the basic period of performance, which contains a definite requirement for the contractor to perform and one, the optional period of performance, in which the contractor's performance is at the option of the government) you are allowed to award OMA funds twice in FY04 using this example since the second period of performance (the option) is considered "new work."

If sufficient funds are not available to fully fund the period of performance of either the basic award or the option award, you may have to narrow the task/period of performance/level of effort to match available funds prior to award or issuance of the task order and then either issue a new contract action or modify the existing contract action when additional funds become available.

That said here is some advice for general services funding. First, services generally are the bona fide need of the fiscal year in which they are performed.

If the OMA funding is for severable services, the performance period cannot go beyond twelve months/one year. It is a statutory prohibition. See 10 USC § 2410a (2004), "Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property." Options under such a contract are treated as new contracts and funded with current year money at the time of the option exercise. Options for severable services should not have periods of performances beyond twelve months/one year.

If the action is a non-severable service contract, it should have been fully funded at the time it was awarded (with then current year monies), so there should be no change in the money. Generally, the determining factor of whether a service is non-severable or severable is whether it represents a single undertaking. For example, generally, services to prepare a final report would be deemed non-severable, while support contractor ADP support (typically found on our big omnibus services contracts) would generally be severable.

3. Closing Statement

Service contracting has recently hit the spotlight and is ever-changing so my final comment here is to ensure that you keep up with the latest guidelines – DoD has published a "Guidebook for Performance Based Service Acquisition in the Department of Defense" dated March 2001. This should be one of your first resources as you enter the world of service contracting. The next section, Federal Supply Schedule Contracting, complements this section as the General Services Administration Schedules are commonly used for the acquisition of services in addition to supplies.

T. FAR PART 38 – FEDERAL SUPPLY SCHEDULE CONTRACTING

1. Scope

FAR Part 38 sets forth the policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration.

2. Discussion

As KOs for the Department of Defense when contracting using the Federal Supply Schedule Program, your regulation references are in FAR Part 8, FAR Part 16 and FAR Part 17, as well as the DFARs for these respective parts. With the General Services Administration having been under scrutiny the last few years, DoD has implemented significant changes in the supplementary regulations, first with the acquisition of services and now expanding to the acquisition of supplies. Documentation requirements have been expanded and somewhat mirror the Justification and Approval for Other Than Full and Open Competition when competition is not obtained. I would recommend that prior to initiation of any action under a GSA schedule that you are current with the myriad of regulations on the subject.

3. Closing Statement

There is no discussion at this time for FAR Parts 39, (FAR Part 40 is Reserved), 41, and 42. The handbook resumes at FAR Part 43, Contract Modifications.

U. FAR PART 43 – CONTRACT MODIFICATIONS

1. Scope

FAR Part 43 sets forth policies and procedures for preparing and processing contract modifications.

2. Discussion

Discussion in this section is on the topics of authority for modifications, consideration, and an administrative choice in contracting for new work.

a. Authority

Ensure that when preparing modifications to contracts that you are using the proper "Authority" for the instant change. Authority comes from statute/law and is implemented through regulation. Just as you have the authority to enter into the initial contract you must have the authority to modify it. The first example is a modification for new work - the modification is a supplemental agreement and the authority in this case is the authority cited on the J&A. In the case of unilateral modifications, the authority comes from FAR clauses in your contracts, such as the changes clause (change orders), an option clause (exercising an option), or the limitation clauses (of funds/cost) used to incrementally fund contracts. If you choose to negotiate your change order in advance of turning the contractor on to doing the work, the modification becomes a supplemental agreement, but your authority is still the changes clause. These are obvious choices. However, what is your authority in a supplemental agreement to extend a delivery schedule? Try FAR 49.402-4(a), which is not very obvious.

See the following excerpt from the Acquisition Technology & Logistics Knowledge Sharing System, "Ask a Professor," which clearly gets the point across:

Can "mutual agreement of all parties" in a supplemental modification be used when no other authority applies? The answer is no. First, the statement "mutual agreement of the parties" is redundant. When the parties sign a bilateral modification, it is intuitively obvious that the parties have agreed, as evidenced by their respective signatures on the same document. Simply stating the obvious does not constitute authority. Second, parties to an agreement can mutually agree to anything - even illegal actions. Yet that does not constitute authority to take an illegal action. Third, the role of the KO is to follow statutory and regulatory authorities and to carry out acquisition policy as cited in the FAR. As onerous as this may sometimes be, the KO must always take lawfully correct actions that may not be the easiest or fastest. In fact, the short methods, while mutually agreeable to the parties, may not be within the spirit and intent of the law or acquisition policy. It is the role of the KO to determine how something may be done fast and simple, and take the appropriate course of contractual action to meet the spirit and intent of laws and acquisition regulations and policies. In order to demonstrate that contractual actions, modifications, and changes are appropriate (lawful), the KO must cite the source of their authority for consummating this binding agreement with the parties. By citing this authority to make a

change, it acts as a check and balance on what the KO can do. Therefore, a casual observer (for instance, a competitor) could examine the agreement (modification) between the government and the contractor and understand the legal/regulatory rationale for making the change.

b. Consideration

When issuing modifications to contracts, such as for change orders or new work added, you routinely renegotiate the contract price. However, when you are about to provide for a delivery schedule extension, ensure that you receive consideration commensurate with the delay that you are willing to endure.

c. New Work Modifications

New Work Modifications to contracts require the same reviews as if awarding a new contract instrument. It is a KO determination as to whether it is in our best interest to issue a new instrument or modify an existing one. Remember such things as the 2579, synopsis, etc. In addition, your original contract that is modified may have been at a lower dollar threshold and the modification may break a threshold that now requires additional pre-award items such as a subcontracting plan or an EEO review. Another thing to keep in mind is that subcontracting plans get updated in certain cases, and do not forget clauses - if you have broken a new threshold - you may now need new clauses from the FAR or DFARS and need new mandatory (or required when applicable) clauses that have gone into effect since the original contract was awarded. Use the administrative checklist as your guide as well as the index checklists for pre-award files as your reminders as to what you need.

3. Closing Statement

There is no discussion at this time for FAR Parts 44. The handbook resumes at FAR Part 45, Government Property.

V. FAR PART 45 – GOVERNMENT PROPERTY

1. Scope

FAR Part 45 sets forth policy and procedures for providing government property to contractors, contractors' use and management of government property, and reporting, redistributing, and disposing of contractor inventory.

2. Discussion

There are two common administrative actions taken regarding the handling of government property and it is important that the purpose and effect of each action be understood. The difference between them is discussed below.

a. Transfer of Accountability

The first is the transfer of property accountability by modification. When government property is provided to contractors for use under government contracts, we are making a determination that it is in the government's best interest and the contractor is responsible for that property through the requirements of the government property clauses of the contract. In many cases, a contractor utilizes certain property on a particular contract, and when that contract is coming to a conclusion they request that it be transferred to another contract still in performance. When you receive such a request, you should ask the following questions. Is there valid use for that property on this other contract? What kind of contract type do you have? If it is a firm- fixed price, should you seek consideration? If the determination is made to transfer that property and you are not the cognizant KO on both contracts, you should ensure coordination of your actions with the other KO of record. The transfer of accountability should be happening concurrently on two modifications, removal from one and addition to the other. This determination is based primarily on the recommendation of the technical activity. Keep in mind that it is sometimes easier to just move the property from one contract to another in the engineer's eyes, since this way they do not have to provide disposition instructions. You should challenge your customer to ensure that it is appropriate.

b. Contractor Use on a Non-interference Basis

The second scenario is when the contractor initiates a request to use the property accountable to one contract on another contract currently in performance. In this case, the same questions should be considered, but if the determination is positive, the action is not a modification but a letter drafted to the contractor authorizing use on the second contract on a non-interference basis. In this situation, you may have two different technical representatives involved. The one authorizing the use to the other contract will be concerned over any potential impact to his/her contract.

3. Closing Statement

There is no discussion at this time for FAR Parts 46, 47, 48, 49, 50 and 51. The handbook resumes at FAR Part 52, Solicitation Provisions and Contract Clauses.

W. FAR PART 52 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. Scope

FAR Part 52 contains the instructions for use of provisions and clauses and their content. It also contains a useful matrix based on contract type and/or purpose.

2. Discussion

The takeaway for the KO as well as the contract specialist is that you will routinely use whatever your automated system generates for you in PADDS; however, you should be aware of what the provision/clause requires of the contractor or government. A common excuse for incorrect clause selection is that “if it doesn’t apply, it is self-deleting.” That may be true in some cases, but in others there may be a cost associated with the incorporation of a provision/clause. Again you may expect that the contractor will note the error when they review the solicitation/contract, but if that does not happen, remember the responsibility for the solicitation/contract belongs to the drafter.

3. Closing Statement

The final part of FAR is Part 53 which contains forms and the respective instructions for some. There is no discussion for this part. The technical chapter of this handbook concludes with some miscellaneous issues and general lessons learned.

X. MISCELLANEOUS ISSUES AND GENERAL LESSONS LEARNED

1. Consistency and Quality

Consistency in the drafting of your solicitations and contracts reduces re-work through amendments and modifications, reduces complications in the delivery of supplies or services or in the payment process for your contractors, and facilitates a timely closeout of your contracts - being more definitive in the description of your line items results in time saved in administration and protection in reviews by auditors, Government Accountability Office (GAO), or the Inspector General (IG). A recent IG review in the Center questioned the appropriateness of funding on a task order. The Contract Line Item Number (CLIN) merely parroted the noun off the Procurement Work Directive (an automatic fill into PADDS). Without a description of the effort to be performed it was unclear that the funding provided was appropriate for the services being acquired. Once an explanation was provided, the IG dismissed the concern, but recommended the use of more definitive CLIN/SLIN descriptions. Samples of widely used common descriptions have been provided in Appendix I for your use and to share with your team.

Documentation – Documentation for contract files that are called for by specific regulation (other than specific formats such as an Acquisition Plan, Justification & Approval, etc.) are prepared in one of two forms, either a Memorandum for Record (MFR) or a Determination and Findings (D&F), the former being less structured. Ensure that when documenting your files for whatever purpose, if a D&F is necessary it is prepared as such. Specific requirements for a D&F may be found at FAR Parts 6, 16 and 25 and DFARS 206, 208, 211, 225 and 237. Examples of documentation that require the D&F are: Contract Type Determination and Findings for a Time and Materials Type Contract.

2. Contractor Proposals

The C-E LCMC legal office has published policy that it is not a good practice to incorporate a contractor's proposal by reference into a contract. Nor should the proposal be used as the statement of work in lieu of a government SOW as part of the ARP.

3. Amendments

KOs are not required to sign amendments.

4. Routing of Documents for Signature

Any documents that must be signed at a level above the KO shall be routed through the proper chain of command. If you need approval of the Sector Chief, your Internal Customer Representative/Group Chief should see this document first. If the approval level is at the Deputy Director/Director level (in any of their roles such as Chief of the Contracting Office), the routing includes the Internal Customer Representative/Group Chief, Sector Chief and the Compliance Branch of Policy. Note that if the documents are source selection sensitive such as competitive range determinations, they do not go through the Compliance Branch. Only those managers that have signed Participation Agreements and have a need to know should be in the review chain. It should also be noted that source selection sensitive documents that need to be left for a reviewer unattended must be placed in a sealed envelope and addressed to that person with the annotation of "Eyes Only" on the outside of the envelope.

5. Signing Off Solicitation Documents in the PADDS and Posting to the Interagency Interactive Business Opportunities Page (IBOP)

It is recommended that you sign off your solicitation in PADDS immediately before posting it to the IBOP. This will fill the date issued block on the face page of your SF33, Solicitation, Offer, and Award. This way if the document is downloaded there is no question as to the issue date. Otherwise, prior to posting, you should make reference to Block 5 in your narrative in Section A and identify the issue date.

Unfortunately when posting amendments to solicitations using the SF 30, Amendment of Solicitation/Modification of Contract, the latter alternative above is

required due to the automatic wrap of information into the solicitation. The amendments lose their unique identity once signed off in PADDS and cannot be recaptured as independent documents. A narrative in the amendment should state the effective date of the amendment and refer to Block 3.

6. Fiscal Issues

Note the difference between a certifying officer and budget authorization. Know your appropriations in terms of use/time/amount.

7. Military Interdepartmental Purchase Requests (MIPRs)

MIPRs are no good without MIPR acceptance.

8. Anti-Deficiency Act

The anti-deficiency act does not just mean spending money that you do not have, it is more. The Purpose Statute (Color of Money) states that the appropriation only applies to objects for which the appropriation was made. The Bona Fide Need Rule (Time) deals with the obligation of funds when the requirement originates in a proper year. Lastly, you can only obligate an amount that is certified as available (committed).

9. Contract Line Item (CLIN)/ Sub Line Item Number (SLIN) Structure

Recent Inspector General reviews have commented on the lack of descriptions accompanying a CLIN/SLIN in Section B. In accordance with the Order of Precedence clauses, FAR 52.214-29 and 52.215-8, required in contracts utilizing the Uniform Contract Format, the Schedule takes precedence over every other area of a solicitation or contract. Therefore, when structuring your solicitation/contract document, it only makes sense to ensure that you have clearly identified what you are buying, how you want it packaged or marked, where inspection and acceptance will take place, where and when you want services performed or supplies delivered, and any special contract requirements. Our PADDS allows you to accomplish this within Section B. Describe what you are buying – we may have streamlined too far – as our ability to cut and paste from one line item to another and from solicitation to solicitation has enabled us to save

so much time, so use that ability and bring the quality of your work product back to what it once was. In order to help you with the quality of your documents, sample CLIN/SLIN descriptions have been provided that capture some of the meaningful information that goes with describing a requirement.

10. Establishing Range Quantities

Work with your customer to encourage future flexibility when establishing range quantities. On more than one occasion I have seen only one range in an Indefinite-Delivery Indefinite-Quantity (IDIQ) Type contract because the customer thought they might only buy, for example, from one to ten items. There was no purpose in even identifying a range since we would have paid the same price regardless of whether we bought one, two or ten, but if requirements had surfaced in excess of ten, the government would have had to renegotiate the contract to attempt a quantity discount later on. Also, in sole source situations, provide the opportunity for your contractors to propose alternate ranges other than those solicited by the government. The contractor should be the expert on where the quantity discounts occur. However, in spite of history, no one can predict the future, so think outside your customers' current expectations and allow for more or less than expected.

11. Content of Amendments and Modifications

Our current PADDS provides for narrative in Section A. The purpose of this preamble is to identify the specific solicitation/contract sections affected and that are forthcoming in the balance of the document in a revised format. This applies to Schedule B and any clauses, etc. Put yourself in the position of the person receiving the amendment or modification. Use your organizational skills and describe the changes in the order in which they will appear in the solicitation/contract. You would not want to have to jump from section B to J to F to C, etc., flipping back and forth if you were the reader. Also, it is a courtesy to the reader to identify what the changes are. Unless they are too voluminous to mention independently in any one particular document, like a specification or Performance Work Statement, provide the change. Purely stating that the PWS has been amended and seeing the new one incorporated by this action does not give

a hint of what changed. However, stating that paragraph four on page thirty has been revised to state, “such and such” in lieu of “such and such” gives the reader a much better indication of what needs to be done. Finally, do not forget to incorporate those sections of the solicitation/contract as changed accordingly in your amendment/modification.

For example, a paragraph should be included similar to the following: “The purpose of this modification is to purchase additional systems under SLIN 0003AA. As a result, the total amount of this contract is increased from \$50,000 by \$10,000 to \$60,000.

Accordingly the contract is modified as follows: Section B – SLIN 0003AA is hereby added to each purchase three widgets.

In today’s environment you may not be the KO of record for long when you award contracts, and you certainly will inherit the work of others. What you want to leave behind is a quality work product that others can understand, and what you hope to gain is the same.

Keep in mind the following general rules:

- Clearly state the purpose of the modification and any affect on the obligated amount.
- Execute modifications in numerical order.
- When executing a definitization modification, ensure that sufficient information is provided to readily identify the changes for each contract line item and sub-line item.
- Use the appropriate terminology in your actions. Funds Obligated, Deferred Financing, Estimated Cost, Cost of Money, Fixed Fee, Ceiling Price, Contract Value, Contract Price, Negotiated Value, etc.
- Ensure you convert After Receipt of Order’s (numbers of days) to Calendar Dates at time of award.

Repeating information multiple times throughout a document for clarity can lead to ambiguity if amendments to solicitations or modifications to contracts are issued and all occurrences of that information are not caught.

Keep narratives in their appropriate section and make use of cross-references - for example, it may be a good practice to provide a narrative under a CLIN for an optional quantity, and you might be inclined to set forth the period in which the option may be

exercised; however, the clause in Section I of your contract is the place for that information. The better approach is to refer the reader to the clause entitled, Exercise of Option, in Section I as the narrative instead. This way if the exercise period is adjusted it only has to be changed in one place.

12. Closing Statement

The technical section of this handbook is now concluded and complemented with a section to assist you in your role as a team leader.

Y. LEADERSHIP

1. Scope

As a result of our changing environment in acquisition, in 1998, supervisory responsibilities were raised to the GS-14 level and your GS-13 KO position was established as a Lead Contract Specialist and Team Leader. You may find this a confusing situation as you have the responsibility for the work of each of your contract specialists, yet you do not supervise them. This section is intended to better identify for you your role and responsibilities as a team leader and offer suggestions that might make this part of your job easier.

2. Discussion

First, you should understand what your job description calls for at a minimum. Your team leader responsibilities fit into the following categories: Communicator, Coach, Leader, Mentor, Resource, and Manager.

a. Communicator

You are to ensure that the organization's strategic plan, its mission, vision and values are *communicated* to the team and integrated into the teams strategies, goals, objectives, work plans, and work product and services.¹⁰ In order for your team to

¹⁰ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

support you in your endeavors to support the organization, it is your responsibility to ensure they understand them as well as you do. See Appendix II.

You should articulate and *communicate* to the team the assignment, project, problem to be solved, actionable events, milestones, and/or program issues under review, and deadlines and time frames for completion.¹¹ In your new role as a team leader, you are no longer just concerned with yourself and your workload; you are now depending on others in order to be successful. A first step is being able to establish a rapport with your team members and communicate with each of them. It is also important that the communication goes both ways - feedback from your team members helps to ensure that a message is received and understood.

You are to prepare reports and maintain records of work accomplishments and administrative information, as required, and coordinate the preparation, presentation and *communication* of work related information to the supervisor.¹² The precursor to communicating the information is collecting the information, which means you will spend an inordinate amount of time working as a data entry clerk. No matter how much this part of your job is an annoyance, it goes with the territory. Find a way to fit data management into your workday as the sooner it becomes part of your routine, the easier it becomes.

You are to *report* to the supervisor periodically on team and individual work assignments, problems, progress in mastering tasks and work processes, and individual and team training needs.¹³ As I discussed earlier, establishing a rapport with your team is important to your success, as is establishing a rapport with your supervisor. Ask for a sit- down and make sure that you know what your supervisor expects of you both generally and specifically.

You are to estimate and *report* to the team on progress in meeting established milestones and deadlines for completion of assignments, projects and tasks,

¹¹ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

¹² Ibid.

¹³ Ibid.

and ensure that all team members are aware of and participate in planning for achievement of team goals and objectives.¹⁴ Again, an open line of communication between you and your team members aids in success.

b. Coach

You are to *coach* the team in the selection and application of appropriate problem solving methods and techniques, provide advice on work methods, practices and procedures, and assist the team and/or individual members in identifying the parameters of a viable solution.¹⁵ An important thing to remember here is that you are a key resource to your team, but your goal should be to facilitate their growth. It is always easier to be the first to offer advice and share your experiences with your team members – you walk away feeling good about yourself when you have helped someone through a problem, but it is even better to encourage team members to come to you with proposed solutions first. Your team members might even offer a different point of view that you had not considered. Of course, if your team member is going down the wrong path, it is your responsibility to steer them in the proper direction.

You are to serve as *coach*, facilitator and/or negotiator in coordinating team initiatives and consensus building activities among team members.¹⁶ The interrelationships among team members can be the result of your actions. Setting precedence for real teamwork can relieve you of concerns when an employee is on vacation or out sick. In the days before personal workspaces and private phone lines, our acquisition workforce sat in groups facing one another and we shared phone extensions. Of course we did not have computers so our metal inboxes sat on our desks. Yet what we did have was a great support system among teams. When a team member was on vacation, we watched the incoming mail, responded to phone calls on their behalf, moved along an acquisition action when it was necessary – this should still happen today. Encourage your teams to “buddy up” – to cover for one another if critical tasks need to

¹⁴ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

¹⁵ Ibid.

¹⁶ Ibid.

keep moving, promote the selection of another contract specialist to act as POC in their absence. What this also does is relieve you of having to take the lead on handling new issues. It promotes growth amongst team members as specialists are given the opportunity to see the work of others on their team. One either learns from a better sample or realizes that their approach to something is already good. This can also relieve team members from concerns about leaving critical things while they are away. You might also encourage your team members to field email queries and phone messages that you receive personally when it is appropriate. Many customers or contractors will automatically contact the KO when they can easily obtain the information from a contract specialist. If you defer the response to your specialist you can do two things. You help them in their growth by giving them the responsibility; after all they are closer to the action than you are. In addition, this provides you with additional time for other actions that require your personal attention.

c. Leader

You are to *lead* the team in: identifying, distributing, and balancing workload and tasks among employees in accordance with established work flow, skill level and/or occupational specialization; making adjustments to accomplish the workload in accordance with established priorities to ensure timely accomplishment of assigned team tasks; and ensuring that each employee has an integral role in developing the final team product.¹⁷ Although the Sector Chief and External Customer Representative have the primary responsibility for workload assignment, your input is important. Again, you are the closest person to both the customer and the specialist and should be aware of the milestones that need to be met. At any point that you see inequities or challenges that need to be overcome, you should work with your Internal and External Customer Representatives to make adjustments that ensure mission accomplishment. A common complaint has always been inequity in workload – although it might still exist between teams, groups, or sectors, the first way to combat concerns is at the team level.

¹⁷ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

You are to *represent* the team in dealings with the supervisor or manager for the purpose of obtaining resources and securing needed information or decisions from the supervisor on major work problems and issues that arise.¹⁸ As a team leader, you are the voice of the team. Holding team meetings occasionally so that you can discuss issues, concerns and contractual challenges is a good venue to assess what issues you might need to raise to a member of the management team.

You are to *represent* the team consensus and convey the team's findings and recommendations in meetings and dealings with other team leaders, program officials, the public, and other customers on issues related to, or that have an impact on, the team's objectives, work products and/or tasks.¹⁹ Being able to present a team position or being prepared to act at meetings requires preparation. Many managers keep a journal of important facts or issues that result from meetings that they can return to at a later date for reference when required. Keeping a journal can work for you as well. Every time there is something that you want to capture for later reference, write it down. It can be a timesaver as well as a great record of events.

d. Mentor

You are to *train* or arrange for the training of team members in methods and techniques of team building and working in teams to accomplish tasks or projects, and provide or arrange for specific administrative or technical training necessary for the accomplishment of individual and team tasks.²⁰ Although the supervisor approves the Individual Development Plan (IDP), you are an integral part of your team members' professional development. You have reached your position through proper training and mentoring throughout your career, so you should offer advice and suggestions on what might be appropriate classes for your team members. You are closest to them on a daily basis and are the first to see where individual weaknesses exist. Your interest in their professional development can only strengthen your leader/member relationship.

¹⁸ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

¹⁹ Ibid.

²⁰ Ibid.

As you are aware, GS-13s and above participate in an annual exercise certifying that they are in compliance with key management controls. It is called the Management Control Process. Appendix BB of the AFARS contains questions in the following areas: Management of the Acquisition Function, Presolicitation, Solicitation, Evaluation and Award, Contract Administration and Special Acquisition Situations and Requirements. As an informal exercise, work with your team and discuss each question; see if you and your team are aware of the subject matter to which the question is related, and if not work together to research a new topic. All questions are based on regulations or laws dictating how we conduct our acquisitions. Use this as an opportunity for informal training and mentoring.

e. Resource

You are to *maintain* program and administrative *reference materials*, project files, and relevant background documents, and make available policies, procedures, and written instructions from the supervisor. You are also to maintain current knowledge to *answer questions* from team members on procedures, policies, directives, etc.²¹ Although your team members have the same access to the electronic files and libraries as you, your role is the team leader. It should be your goal to set an example. Ensure that your team complies with the appropriate filing procedures for their solicitations and contracts so that when any party requires access, the information is available. You should advise your team of changes in policies or procedures. When provided with information from the supervisor you should immediately distribute that information to the team. As a team leader, your team expects you to answer questions not only about contracting, but also about the Center such as personnel issues, procedures, etc. As questions arise that you have not faced before, reach out to our resource management area, personnel, legal or your supervisor to ensure that you provide accurate information. Once you have the correct information, share it among other team

²¹ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

members – it may be that someone has had that same question but not asked before. Proactive distribution of information can reach more people than if you only provide the answer to the one who asked.

f. Manager

You are to *monitor and report* on the status and progress of work, checking on work in progress and reviewing completed work to see that the supervisor's instructions on work priorities, methods, deadlines, and quality have been met.²² One way of reporting progress is through the Weekly Activity Report. Each Directorate is responsible for identifying weekly activity to the Commanding General. This information is collected at the Sector Level and routed through the Policy Group for dissemination to the Director. You and your team should be reporting on actions that you deem significant in the prior work week whether they are “Good News” items, “Challenges,” or “Personnel Issues.” Although your submissions may not make it into either the Sector’s or Directorate’s submissions to their respective addressees, it is an opportunity to acknowledge the work of you and your team, at a minimum, in the eyes of your supervisors.

Since the transition to email and the informal structure in which we communicate today, the opportunity exists for your specialists to “converse” in writing with contractors, customers, and other organizations without having to get your signature on a document. You may not have to be involved in this communication; however, it is still wise to request that you be copied on all outgoing correspondence. It sets an example to those that receive the correspondence that you are actively involved in what is going on and you can easily discard those things that are routine. The benefit of this is the increased insight into the team members’ work, how they handle situations, and the opportunity to step in when something does not go quite right. If they tell you they do not want to fill your inbox with excess information, your response is that they need only worry about their inboxes and you will manage yours.

²² Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

You may *approve* emergency leave for up to three days, eight hours or less for medical appointments, and /or other types of leave as delegated by management.²³ Now as a team leader, do not let these approval limitations stop you there. As a team leader, you are expected to meet your mission but you can not meet that end without the cooperation and support of your team. Team attendance is the ultimate responsibility of the supervisor, but you are the first person that can influence approval or disapproval of leave. Think about this - you are ultimately responsible and accountable for your acquisitions. You and your specialists are the first face to the customer and contractor. Although your supervisor needs to approve the leave, you have just as much right to know the whereabouts of your team members, whether they are out sick, on vacation, etc. Requiring that your specialists route their leave slips through you first as a courtesy is an excellent opportunity for you to monitor their whereabouts, and when it appears that the mission will be affected it is up to you to voice your concerns so that either the leave is disapproved or other accommodations are made for mission accomplishment. When you suspect that abuses are occurring or that your mission will be affected, use that opportunity to work with your supervisor to counsel that employee or discuss alternatives.

You are to *resolve* simple, informal complaints of employees and refer others, such as formal grievances and appeals, to the supervisor or an appropriate management official.²⁴ This is your first opportunity to face the challenges of personnel management.

You are to *intercede* with the supervisor on behalf of the team to inform the supervisor of performance management issues/problems and to recommend/request related actions such as assignments, reassignments, promotions, tour of duty changes, peer reviews, and performance appraisals.²⁵ As stated before, you play an instrumental role in the organization. Although you do not have the “supervisory” title, you are an important member of the Center. Your recommendations are important to the supervisor.

²³ Position Description, PD# AL174439, Lead Contract Specialist, GS-1102-13, 05/17/2004.

²⁴ Ibid.

²⁵ Ibid.

You have in some cases the only first hand experience on issues with personnel. This is inherent in your role as KO. These experiences may be good or bad, but what is more important is that you relay accurate, timely information to the supervisor so that appropriate action may be taken.

Z. ADDITIONAL SUGGESTIONS/IDEAS

As you face your team for the first time, be prepared. Think out what you want to say to them, tell them your philosophy, and tell them about yourself. Employees will state that as long as they know where their team leader or supervisor is coming from there are no surprises. Once your expectations are understood, there is no room for excuses.

Remember that each team member is not you. Believing that each specialist will work as hard as you or have the same priorities as you is a recipe for disappointment or worse. Trying to make your specialists conform to your idiosyncrasies is counterproductive to efficiency. Allow your specialists to flourish by encouraging their positive traits. Deal with the negative traits through conflict resolution. A real challenge is to adapt your leadership and management style to what the team member needs.

1. Conflict Resolution

It would be nice if we all had a graduate education in conflict resolution. However, we do not, so we have to make the best of what we learn in leadership classes and in the day-to-day environment. Being able to get the parties together, especially when the positions and goals are known and significantly diverse, is a necessary skill that takes a cool head and a certain amount of detachment for the optimal solution to present itself. The worst time to face a situation is when emotions have surfaced. At a minimum, take a timeout and face the situation when all parties are in control. When there are alternatives on the table that cannot be agreed upon, it is a good idea to have everyone prepare their pros and cons so that the right solution will surface.

2. Recognition

You are the first one to see the accomplishments and dedication of your team members. This organization has the opportunity to recognize employees in many ways.

Recognition can be as simple as a letter of appreciation or certificate of achievement, or more formal as an on-the-spot award, time-off award, etc. Of course, budget limitations are always there; however, if you seriously want to recognize someone that is deserving of that recognition, work with your supervisor to make it happen.

3. Closing Statement

The final section of this resource is to assist you with Customer Relations.

AA. CUSTOMER RELATIONS

1. Scope

The section is about understanding that your customer is facing many of the same challenges as you are today. It is about educating your customer when necessary and acknowledging that you have to establish relationships.

2. Discussion

Although the challenges you are asked to face each day may seem overwhelming, the requirements community faces these same challenges. The attrition and youth that has occurred in the acquisition career field has also occurred across the DoD and C-E LCMC.

When assigned a new customer, it is important for you to be familiar with not only the immediate requirement, but to establish an understanding of their organization and their overall programs. Work with your External Customer Representatives, as they have the insight into who the players are that have influence in that organization. Ensure that the customer knows that only warranted KOs such as you may obligate the government to contracts. They must understand that in their capacity as technical points of contact/representatives, they must not cause a contractor to perform outside the terms of a contract. Also ensure that they realize that they could be held personally liable or be subject to adverse administrative action if they were to commit the government without Contracting Officer authorization (a clear example of this is an unauthorized commitment which would require ratification if the proper conditions existed).

a. Funding

It is critical that you work with their respective budget offices and develop a mutual understanding of the type of funds that are necessary to finance their acquisitions. The customers must be convinced that in certain situations they might have to provide an explanation for the use of funding when it does not seem appropriate. Your warrant is on the line in an anti-deficiency violation and you should not let yourself be placed in this type of situation.

b. Understanding the Requirement

Initiation of an acquisition action should not begin until a meeting is held between yourself and the customer. This standard “meeting,” otherwise known as a Collaborative Acquisition Strategy Session meeting, with the Logistics Readiness Center (customer) is very useful and precedes any real work by either party. It affords an opportunity to have a clear understanding of what the customer wants at the outset. Ask your customer to describe the requirement, including a generic identification of the item, functions, performance required, or essential physical characteristics. Find out what market research was performed in advance of your meeting. In many cases, minimal market research may have been performed and you may need to support its continuation. In today’s environment of commercial contracting, the research should go beyond the item and include terms and conditions that exist in the commercial marketplace to include financing. Optional strategies can be presented to the customer and in some cases a more useful contract can be employed versus the one the customer originally thought he wanted. For example, establishing a five-year IDIQ contract when it appears that the customer comes back routinely for repetitive purchases for the same item. You need to challenge your customers to do some forward thinking and strategizing and remind them that a lot can change in a couple of years. The customer should always be encouraged to look past the present need in satisfying a requirement.

c. Regulatory Guidance

A common complaint from a customer is hearing that something can not be done. Although you know that you will have limitations in order to comply with laws

and regulations, your first response to the customer should be that you will find a way to meet their needs. Explain that you will do so within the parameters that have been placed on you. Often, it may help to explain the basis for a rule or regulation to the customer. Once the significance of the issue is understood, the customer may change his/her outlook and support your position.

d. Cycle Time

When planning your acquisition, a frank discussion of lead-time is always warranted. Although we have established cycle times and it is our intent to work within those timeframes, it would be unrealistic not to expect bumps in the road and unplanned delays. The more open and honest you are with your customer about the status of the acquisition, the more willing he/she is to accept delays.

e. Quality Assurance

Ensure that your technical representatives are aware of their responsibilities relative to inspection and acceptance of supplies and services. An untimely response by your customer, whether it be in responses to correspondence or in the review and acceptance of delivered products, can only lead to future issues. Maintain constant cognizance with respect to contract performance by the contractor and this will gain you the respect of your customer.

f. Interpersonal Relationships

What about the “impossible” project leader assigned to your acquisition? Remember that it is the job of the entire acquisition team to get the job done, not just the customer lead. Try to focus on the objective and not the person. What about dealing with people that are in higher grades than you? Show respect for technical input from experts. Let those experts know where their contributions fit into the acquisition process. This is your opportunity to show them that you are on top of managing the contract placement process itself.

g. Joint Customers

Taking directions from two customers involved in one requirement can lead to many problems. It is essential to get both customers' top management involved at the first sign of a possible partnering arrangement. Both customers must lay down ground rules – priorities and preferred lines of communication can be resolved in advance by a Memorandum of Understanding.

h. Prioritization and Customers

Satisfying two different customers (even within the same Program Manager's office) at the same time, both of them believing their effort is the most critical, can be a challenge. As a Procuring Contracting Officer you have to be able to prioritize those efforts. Involve your Customer Representative and don't be afraid to ask the Program Manager to intervene, when necessary, to ease the pressures imposed on you by different offices.

i. The Legal Office

If you could pick one relationship that is worth spending time on, I advocate a relationship with a legal advisor (or many). Too often, acquisition personnel look at the legal office as a stumbling block to awarding contracts (just as customers look at the acquisition center as the necessary evil between their requirement and a contract). Although your attorneys are advisors and you can choose to ignore them, it is not a wise decision. If you approach them, having done the legwork in researching your issues, inform them of your research, propose an opinion or approach and remain open-minded, you will have their respect for your technical competence. You will then have access to a cadre of support to aid you throughout your career.

3. Closing Statement

I hope you have found this handbook to be a valued resource. There are certainly many more lessons to be documented in the future and what is key to many of the things I have addressed is that a person's growth in acquisition is through experience and time.

Enjoy your role, absorb as much as you can, know where and who to seek out for help, and emulate the best characteristics of the people you admire.

IV. CONCLUSIONS AND RECOMMENDATION

A. CONCLUSIONS

The purpose of this project is to hand down lessons and ideas gained only through experience. It is to be used as a learning tool for Contracting Officers/Team Leaders and intended as a resource that can be supplemented by the C-E LCMC Acquisition Center. Since inception of the idea for this project, the C-E LCMC faces closure from the Base Realignment and Closure Commission (BRAC) in approximately 2011. As our organization now faces yet another obstacle that will affect the manpower of the Center, this handbook will be an opportunity for not only the author but other members of the Center to add to this handbook and leave somewhat of a legacy of the C-E LCMC Acquisition Center of For Monmouth, New Jersey. The intent is to increase technical competence and provide for skills in leadership as well as customer relations. The organization continues to promote into the Lead Contract Specialist position employees that have minimal years of experience. With attrition and now BRAC, any additional resource that exists should be made available to the workforce until lack of experience is corrected by time.

B. RECOMMENDATION

This handbook will be provided to the Director, C-E LCMC Acquisition Center with the recommendation that the senior management staff adopt it as a new resource available to Contracting Officers/Team Leaders.

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APPENDIX I

CLIN STRUCTURING/ NARRATIVE DESCRIPTIONS

SERVICE (R&D Effort with a Statement of Work):

Services, facilities and materials for a thirty-six month effort commencing approximately _____ and ending _____ for the Engineering and Manufacturing Development of a STINGRAY System in accordance with the Statement of Work entitled, _____, dated _____, set forth in Section J, Attachment 001. Results of this effort will be reported in accordance with CLIN 0002 and DD Form 1423, Exhibit A.

(Narrative B001)

INCREMENTAL FUNDING FOR R&D EFFORT, Initial 12 Month Period:

Incremental Funding for the period of _____ to _____.

Estimated Cost	\$100.00
Fixed Fee	\$ 20.00
Cost of Money	<u>\$ 1.00</u>
Funds Allotted	\$121.00

(Narrative B001)

SERVICES OPTION PERIOD (R&D Effort):

Option for an additional 12 months of the services as described in CLIN 0001. See Section I.____, “Exercise of Option” and Section M.____, “Evaluation of Option”. (Insert clause numbers and appropriate titles of provisions as applicable).

(Narrative B001)

HARDWARE OPTION CLIN:

This is a 100% Option for CLIN 0001. See Section I.____, “Exercise of Option” and Section M.____, “Evaluation of Options”. (Insert clause numbers and appropriate titles of provisions as applicable).

Total quantity of _____ each is set forth in SLIN(s) 0001AA.

(Narrative A001 – will appear before the SLINS)

FIRST ARTICLE:

CLIN 0002 – First Article Requirements

First Article consists of _____ units of NSN _____ manufactured in accordance with requirements cited for CLIN 0001. _____ approved First Article Units may/must be delivered as part of the production quantity (CLIN 0001), and _____ units are in addition to the production quantity. See I. _____ (use proper reference for clause in section I) and C. _____ (use proper reference for clause in section C) for First Article Testing and approved requirements. See C. _____ (use proper reference for clause in section C) for First Article disposal.

First Article effort is broken down into three categories: Fabrication, Test Plan, Testing and Test Report; as set forth in SLINs 0002AA, 0002AB, and 0002AC.

CAUTION:

Failure to complete amount columns for First Article SLINs may render your bid/offer nonresponsive. See B. _____ (use proper reference for clause in section B).

Bidders/Offerors are cautioned that prices for First Article Units (and testing if performed by the contractor) should reflect only those reasonable costs associated with producing (and testing) those units or run the risk of being rejected as unacceptable if the bid/offer is found to be materially unbalanced.

(Narrative A001 – will appear before the SLINs)

SLIN 0002AA – Fabrication of First Article

Under the SLIN, include all charges for labor and materials and all other costs allocable to the fabrication of First Article Units. For units that will be delivered as part of the production quantity, only include costs over and above the costs covered by CLIN 0001. Include cost of refurbishment that may be required after testing, for acceptance as production quantity.

(Narrative B001)

Inspection: Source Acceptance: Source – auto fills from PRON/CLIN Level

Subject to approval of First Article Test Report.

(Narrative E001)

SLIN 0002AB – First Article Test Plan

First Article Test Plan in accordance with DD Form 1423, Contract Data Requirements List, Exhibit ____, Data Item No. ____.

(Narrative B001)

Packaging and Marking in accordance with Subsection D. ____.

(Narrative D001)

SLIN 0002AC – First Article Testing and Test Report

Under this SLIN, include the cost of performing the First Article Tests and for preparing and submitting the test report.

First Article Testing shall not commence prior to Government approval of the First Article Test Plan (SLIN 0002AB). First Article Testing and Test Report in accordance with C. ____ and I. ____.

(Narrative B001)

Packaging and Marking requirement in accordance with D. _____. Applicable only to the test report.

(Narrative D001)

Testing Effort – Source (subject to Government approval of First Article Test Report)
Test Report - Destination

(Narrative E001)

WARRANTY CLIN

CLIN 0005 - Warranty:

Requirements are set forth in SLINs 0005AA thru 0005AC.

(Narrative A001)

SLIN 0005AA – Warranty Requirements:

Warranty requirements are set forth in Section C.

See Subsection B.____, Warranty Pricing Instructions. (Use this statement only in Sealed Bids (IFBs)).

(Narrative B001)

SLIN 0005AB – Warranty Marking Requirements:

The material provided under the contract shall be marked in accordance with MIL-STD-129 (issue in effect at time of award). External packing shall be marked in accordance with MIL-STD-130 (issue in effect at time of award).

(Narrative D001)

SLIN 0005AC – Warranty Status Report:

Technical Data in accordance with DI-A-1025 as set forth in Exhibit __, Contract Data Requirements List, DD Form 1423, Data Item No. _____.

(Narrative B001)

How to Describe and Organize Data Items/Technical Data:

The below data items/DD Form 1423's/Contract Data Requirements List (CDRL)s have been arranged and grouped appropriately for structuring the Section B/CLIN/SLIN schedule and for inclusion in Section J of the solicitation.

Step 1 – CDRLs were grouped first by functional category (alphabetically) (remember each functional category will have its own exhibit letter)

Step 2 – within each functional category put the CDRLs in numerical order

Step 3 – data item numbers (one per CDRL) were added using the exhibit letter as the first entry of the data item number

Step 4 – each exhibit will be represented by a new CLIN

DATA ITEM DESCRIPTION	<u>TITLE</u>	<u>SUBTITLE</u>	DATA ITEM NUMBER/EXH
DI-MGMT-80368	STATUS REPORT	BI-MONTHLY STATUS REPORT	A001 A
DI-MISC-80711A	SCIENTIFIC AND TECHNICAL REPORT	TECHNICAL DESCRIPTION DOCUMENT	B001 B
DI-MISC-80711A	SCIENTIFIC AND TECHNICAL REPORT	TRADEOFF STUDY	B002 B
DI-NDTI-80809B	TEST/INSPECTION REPORT	PHASE I REPORT	C001 C
DI-NDTI-80809B	TEST/INSPECTION REPORT	PHASE II REPORT	C002 C
DI-NDTI-81284	TEST AND EVALUATION PROGRAM PLAN	PHASE I PLAN	C003 C
DI-NDTI-81284	TEST AND EVALUATION PROGRAM PLAN	PHASE II PLAN	C004 C

CLIN 0002

Contract Data Requirements List for Functional Category MGMT, Management, in accordance with the requirements, quantities and schedules as set forth in DD Form 1423, Exhibit A, Data Item A001, SLIN 0002AA.

(NARRATIVE A001)

SLIN 0002AA NOUN: BI-MONTHLY STATUS REPORT

Status Report, Bi-Monthly Status Report, in accordance with DI-MGMT-80368, Exhibit A, Data Item Number A001.

(NARRATIVE B001)

CLIN 0003

Contract Data Requirements List for Functional Category, MISC, Miscellaneous, in accordance with the requirements, quantities and schedules as set forth in DD Form 1423, Exhibit B, Data Items B001 through B002, SLINs 0003AA through 0003AB.

(NARRATIVE A001)

SLIN 0003AA NOUN: TECHNICAL DESCRIPTION DOCUMENT

Scientific and Technical Report, Technical Description Document, in accordance with DI-MISC-80711A, Exhibit B, Data Item Number B001.

(NARRATIVE B001)

SLIN 0003AB NOUN: TRADEOFF STUDY

Scientific and Technical Report, Tradeoff Study, in accordance with DI-MISC-80711A, Exhibit B, Data Item Number B002.

(NARRATIVE B001)

CLIN 0004

Contract Data Requirements List for Functional Category, NDTI, Non Destructive Testing and Inspection, in accordance with the requirements, quantities and schedules as set forth in DD Form 1423, Exhibit C, Data Items C001 through C004, SLINs 0004AA through 0004AD.

(NARRATIVE A001)

SLIN 0004AA NOUN: PHASE I REPORT

Test/Inspection Report, Phase I Report, in accordance with DI-NDTI-80809B, Exhibit C, Data Item Number C001.

(NARRATIVE B001)

SLIN 0004AB NOUN: PHASE II REPORT

Test/Inspection Report, Phase II Report, in accordance with DI-NDTI-80809B, Exhibit C, Data Item Number C002.

(NARRATIVE B001)

SLIN 0004AC NOUN: PHASE I PLAN

Test And Evaluation Program Plan, Phase I Plan, in accordance with DI-NDTI-81284, Exhibit C, Data Item Number C003.

(NARRATIVE B001)

SLIN 0004AD NOUN: PHASE II PLAN

Test And Evaluation Program Plan, Phase II Plan, in accordance with DI-NDTI-81284, Exhibit C, Data Item Number C004.

(NARRATIVE B001)

SECTION J – This is how Section J will appear to be consistent with Section B – note Exhibits by Functional Category – not by individual CDRL

EXHIBIT	TITLE	NO PAGES
A	Contract Data Reqts List for Funct Cat Management	001
B	Contract Data Reqts List for Funct Cat Miscellaneous	002
C	Contract Data Reqts List for Funct Cat Nondestructive Test/Inspection	004

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APPENDIX II

Vision, Mission, and Motto of the Organization

A published vision and or mission of an organization identify a path towards accomplishment of its tasks.

The C-E LCMC AC's Vision is to be the Acquisition Center of Choice, where innovative people provide optimal solutions to meet the needs of our customers for America and its Allies.

The C-E LCMC AC's Mission is to create and deliver value-added, innovative acquisition and business solutions that support America's warfighters.

The C-E LCMC AC's Motto is to take a Proactive Approach to Contracting Excellence through its People, Automation, Continuous Process Improvement and Education (PACE²). Through this approach, the C-E LCMC AC has become the Acquisition Center of Choice, where innovative people provide optimal solutions to meet the needs of our customers for America and its allies.

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